

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

October 19, 2004

10:00 AM - 1:00 PM

Senate Hearing Room 4
Olympia, Washington

AGENDA

Work Session/Public Hearing/Possible Executive Session

- 10 AM **(1) Age 65 Retirement – Options**
 – Laura Harper, Senior Research Analyst Legal
- 10:30 AM **(2) LEOFF 1 Issues** – Bob Baker, Senior Research
 Analyst
- 11:00 AM **(3) State Patrol Rate Stability** – Bob Baker
- 11:30 AM **(4) Post-retirement Employment** – Laura Harper
- Noon **(5) SCPP Executive Committee Membership**
 – Laura Harper
- 12:30 PM **(6) Interruptive Military Service** – Laura Harper
- 1:00 PM **(7) Adjourn**

Representative Gary Alexander

Elaine M. Banks
TRS Retirees

Marty Brown, Director*
Office of Financial Management

Senator Don Carlson

John Charles, Director
Department of Retirement Systems

Representative Steve Conway*
Vice Chair

Richard Ford
PERS Retirees

Senator Karen Fraser*
Chair

Representative Bill Fromhold

Leland A. Goeke*
TRS and SERS Employers

Bob Keller
PERS Actives

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Glenn Olson
PERS Employers

Representative Larry Crouse

Diane Rae
TRS Actives

Senator Debbie Regala

J. Pat Thompson
PERS Actives

David Westberg*
SERS Actives

***Executive Committee**

Persons with disabilities needing auxiliary aids or services for purposes of attending or participating in Select Committee on Pension Policy meetings should call (360) 753-9144. TDD 1-800-635-9993

(360) 753-9144
Fax: (360) 586-8135
TDD: 1-800-635-9993

Select Committee on Pension Policy

Meeting and Issue Schedule

(August 30, 2004)

April 20, 2004

10:00 AM - 12:30 PM

Senate Hearing Rm 4

Election of Officers
Session Update
Interim Work Plan
Meeting Dates

May 18, 2004

9:30 AM - 4:00 PM

Senate Hearing Rm 4

Orientation

June 15, 2004

10:00 AM - 12:30 PM

Senate Hearing Rm 4

Adequacy of Benefit
Military Service Credit

July 13, 2004

10 AM - 1 PM

Senate Hearing Room 4

Election of Chair
Adoption of Meeting Schedule
Purchasing Power
Post-Retirement Employment
Contribution Rate Setting

August 17, 2004

10 AM - 1 PM

Senate Hearing Room 4

Rules of Procedure
Gain-sharing
Purchasing Power - Options
PFC Audit and Recommendations

September 7, 2004

10 AM - 1 PM

Senate Hearing Room 4

Retiree Health Insurance
Age 65 Retirement
PFC Recommendations
OSA 05-07 Budget Request

October 19, 2004

10 AM - 1 PM

Senate Hearing Room 4

Age 65 Retirement - Options
LEOFF 1 Issues
State Patrol Rate Stability
Post-retirement Employment
SCPP Executive Committee Membership
Interruptive Military Service

November 9, 2004

10 AM - 1 PM

Senate Hearing Room 4

Plan 3 Vesting
Part-Time ESAs
Technical Corrections
Contribution Rate Setting

December 7, 2004

10 AM - 1 PM

Senate Hearing Room 4

Legislation

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

DRAFT MINUTES

September 7, 2004

The Select Committee on Pension Policy met in Senate Hearing Room 4, Olympia, Washington on September 7, 2004.

Committee members attending:

Senator Fraser, Chair	Doug Miller
Representative Conway, Vice Chair	Glenn Olson
Representative Alexander	Representative Crouse
Elaine Banks	Diane Rae
Senator Carlson	Senator Regala
Representative Fromhold	J. Pat Thompson
Leland Goeke	Dave Westberg
Corky Mattingly	

Maureen Westgard attending for John Charles.

Senator Fraser, Chair, called the meeting to order at 10:05 AM.

Senator Fraser welcomed Maureen Westgard, Deputy Director, Department of Retirement Systems attending for John Charles.

- (1) **Appointment to the State Actuary Appointment Committee**
J. Pat Thompson of the Select Committee on Pension Policy was appointed to replace Richard Ford on the State Actuary Appointment Committee

- (2) **Retiree Health Insurance**
Bob Baker, Senior Research Analyst, presented the report entitled "Retiree Health Insurance."

Pete Cutler, Acting Administrator, Health Care Authority, reviewed the "Washington State Health Care Authority, Uniform Medical Plan" handout.

The following people testified:

John Kvamme, Washington Association of School Administrators/
Association of Washington School Principals
Sam Kinville, retired

Representative Gary Alexander

Elaine M. Banks
TRS Retirees

Marty Brown, Director*
Office of Financial Management

Senator Don Carlson

John Charles, Director
Department of Retirement Systems

Representative Steve Conway*
Vice Chair

Representative Larry Crouse

Richard Ford
PERS Retirees

Senator Karen Fraser*
Chair

Representative Bill Fromhold

Leland A. Goeke*
TRS and SERS Employers

Bob Keller
PERS Actives

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Glenn Olson
PERS Employers

Diane Rae
TRS Actives

Senator Debbie Regala

J. Pat Thompson
PERS Actives

David Westberg*
SERS Actives

***Executive Committee**

(360) 753-9144
Fax: (360) 586-8135
TDD: 1-800-635-9993

(3) Age 65 Retirement

Laura Harper, Senior Research Analyst Legal, presented the report entitled "Age 65 Retirement."

(4) Pension Funding Council Recommendations

Senator Fraser reported on the results of the Pension Funding Council Subgroup committee meeting and that the SCPP supports the continued full funding of the Washington State retirement systems but also realizes the significant financial commitment associated with implementing the required contribution rate increases.

Matt Smith, State Actuary, reviewed the "Deferred Rate Increases" report.

It was moved to adopt and recommend to the Pension Funding Council the preliminary 2005-07 contribution rates, as calculated by the State Actuary, including the cost of recognizing the liability associated with future gain-sharing benefits. Seconded.

MOTION CARRIED

It was moved to recommend to the Pension Funding Council that the 2005-07 contribution rates as calculated by the State Actuary be approved. Seconded.

MOTION CARRIED

(5) Office of the State Actuary 05-07 Budget Request

Matt Smith, State Actuary, reviewed the 2005-07 Budget Request handout. Committee members discussed this issue and the Chair recommended to prioritize the new budget increase as follows: (1) Actuarial Valuation System; (2) Publications Specialist; (3) Business Plan Consultant.

It was moved to approve the 2005-07 budget as recommended and the new budget increase be prioritized as the chair submitted. Seconded.

MOTION CARRIED

Senator Fraser reviewed a letter submitted by Cassandra de la Rosa, Executive Director, Retired Public Employees Council of Washington.

The meeting adjourned at 12:30 PM.

Select Committee on Pension Policy

Age 65 Retirement Probability of Service Retirement

(October 18, 2004)

Option 1: Rule of 90

Kicker Added to Retirement Probability						
	PERS Male	PERS Female	SERS Male	SERS Female	TRS Male	TRS Female
Age						
55	0.35	0.29	0.30	0.30	0.30	0.30
56	0.35	0.29	0.30	0.30	0.30	0.30
57	0.35	0.29	0.30	0.30	0.30	0.30
58	0.29	0.22	0.30	0.30	0.30	0.30
59	0.29	0.22	0.30	0.30	0.30	0.30
60	0.29	0.22	0.30	0.30	0.30	0.30
61	0.29	0.22	0.25	0.30	0.30	0.30
62	0.29	0.16	0.25	0.20	0.30	0.20
63	0.11	0.16	0.25	0.20	0.25	0.20
64	0.11	0.16	0.25	0.20	0.25	0.20

The kicker is added to the retirement probability when first eligible for the Rule of 90. For each year after the year first eligible, 25% of the kicker is added.

Option 2: Unreduced Retirement at Age 60 with 20 Years of Service

Age	Current Assumptions						Age 60 with 20 Years of Service								
	PERS	PERS	SERS	SERS	TRS	TRS	PERS	PERS	PERS	SERS	SERS	SERS	TRS	TRS	TRS
	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male
							>=20			>=20			>=20		
	<30	>=30	<30	>=30	<30	>=30	<20	<30	>=30	<20	<30	>=30	<20	<30	>=30
54			0.02	0.04	0.05	0.08				0.02	0.02	0.04	0.05	0.05	0.08
55	0.05	0.07	0.05	0.07	0.05	0.08	0.05	0.05	0.07	0.05	0.05	0.07	0.05	0.05	0.08
56	0.05	0.07	0.05	0.07	0.05	0.08	0.05	0.05	0.07	0.05	0.05	0.07	0.05	0.05	0.08
57	0.05	0.07	0.05	0.07	0.05	0.08	0.05	0.05	0.07	0.05	0.05	0.07	0.05	0.05	0.08
58	0.10	0.14	0.10	0.14	0.05	0.08	0.10	0.10	0.14	0.10	0.10	0.14	0.05	0.05	0.08
59	0.10	0.14	0.10	0.14	0.20	0.30	0.10	0.10	0.14	0.10	0.20	0.14	0.20	0.38	0.30
60	0.14	0.21	0.14	0.21	0.40	0.60	0.14	0.22	0.21	0.14	0.20	0.21	0.40	0.63	0.60
61	0.14	0.21	0.14	0.21	0.30	0.45	0.14	0.22	0.21	0.14	0.45	0.21	0.30	0.47	0.45
62	0.33	0.50	0.33	0.50	0.30	0.45	0.33	0.49	0.50	0.33	0.30	0.50	0.30	0.38	0.45
63	0.26	0.39	0.26	0.39	0.60	0.90	0.26	0.44	0.39	0.26	0.38	0.39	0.60	0.80	0.90
64	0.79	0.90	0.79	0.90	0.50	0.50	0.79	0.90	0.90	0.79	0.90	0.90	0.50	0.50	0.50
65	0.52	0.52	0.52	0.52	0.50	0.50	0.52	0.52	0.52	0.52	0.52	0.52	0.50	0.50	0.50
66	0.30	0.30	0.30	0.30	0.50	0.50	0.30	0.30	0.30	0.30	0.30	0.30	0.50	0.50	0.50
67	0.22	0.22	0.22	0.22	0.50	0.50	0.22	0.22	0.22	0.22	0.22	0.22	0.50	0.50	0.50
68	0.22	0.22	0.22	0.22	0.50	0.50	0.22	0.22	0.22	0.22	0.22	0.22	0.50	0.50	0.50
69	0.26	0.26	1.00	1.00	1.00	1.00	0.26	0.26	0.26	1.00	1.00	1.00	1.00	1.00	1.00
70+	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00

Option 2: Unreduced Retirement at Age 60 with 20 Years of Service

Age	Current Assumptions						Age 60 with 20 Years of Service								
	PERS	PERS	SERS	SERS	TRS	TRS	PERS	PERS	PERS	SERS	SERS	SERS	TRS	TRS	TRS
	Female	Female	Female	Female	Female	Female	Female	Female	Female	Female	Female	Female	Female	Female	Female
							>=20			>=20			>=20		
	<30	>=30	<30	>=30	<30	>=30	<20	<30	>=30	<20	<30	>=30	<20	<30	>=30
54			0.02	0.04	0.03	0.05				0.02	0.04	0.04	0.03	0.05	0.05
55	0.05	0.07	0.05	0.07	0.05	0.08	0.05	0.05	0.07	0.05	0.07	0.07	0.05	0.08	0.08
56	0.05	0.07	0.05	0.07	0.10	0.15	0.05	0.05	0.07	0.05	0.07	0.07	0.10	0.15	0.15
57	0.05	0.07	0.05	0.07	0.10	0.15	0.05	0.05	0.07	0.05	0.07	0.07	0.10	0.15	0.15
58	0.05	0.07	0.05	0.07	0.10	0.15	0.05	0.05	0.07	0.05	0.07	0.07	0.10	0.15	0.15
59	0.05	0.07	0.05	0.07	0.15	0.23	0.05	0.05	0.07	0.05	0.25	0.07	0.15	0.34	0.23
60	0.14	0.21	0.14	0.21	0.20	0.30	0.14	0.27	0.21	0.14	0.20	0.21	0.20	0.31	0.30
61	0.18	0.27	0.18	0.27	0.30	0.45	0.18	0.24	0.27	0.18	0.35	0.27	0.30	0.33	0.45
62	0.30	0.45	0.30	0.45	0.30	0.45	0.30	0.52	0.45	0.30	0.35	0.45	0.30	0.50	0.45
63	0.26	0.39	0.26	0.39	0.50	0.75	0.26	0.44	0.39	0.26	0.44	0.39	0.50	0.75	0.75
64	0.82	0.90	0.82	0.90	0.50	0.50	0.82	0.90	0.90	0.82	0.90	0.90	0.50	0.50	0.50
65	0.49	0.49	0.49	0.49	0.30	0.30	0.49	0.49	0.49	0.49	0.49	0.49	0.30	0.30	0.30
66	0.30	0.30	0.30	0.30	0.25	0.25	0.30	0.30	0.30	0.30	0.30	0.30	0.25	0.25	0.25
67	0.26	0.26	0.26	0.26	0.25	0.25	0.26	0.26	0.26	0.26	0.26	0.26	0.25	0.25	0.25
68	0.26	0.26	0.26	0.26	0.40	0.40	0.26	0.26	0.26	0.26	0.26	0.26	0.40	0.40	0.40
69	0.22	0.22	1.00	1.00	1.00	1.00	0.22	0.22	0.22	1.00	1.00	1.00	1.00	1.00	1.00
70+	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00

Option 3: Uniform 3% ERRF

Age	Current Assumptions						Uniform 3% ERF					
	PERS	PERS	SERS	SERS	TRS	TRS	PERS	PERS	SERS	SERS	TRS	TRS
	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male
	<30	>=30	<30	>=30	<30	>=30	<30	>=30	<30	>=30	<30	>=30
54			0.02	0.04	0.05	0.08			0.04	0.04	0.08	0.08
55	0.05	0.07	0.05	0.07	0.05	0.08	0.07	0.07	0.07	0.07	0.08	0.08
56	0.05	0.07	0.05	0.07	0.05	0.08	0.07	0.07	0.07	0.07	0.08	0.08
57	0.05	0.07	0.05	0.07	0.05	0.08	0.07	0.07	0.07	0.07	0.08	0.08
58	0.10	0.14	0.10	0.14	0.05	0.08	0.14	0.14	0.14	0.14	0.08	0.08
59	0.10	0.14	0.10	0.14	0.20	0.30	0.14	0.14	0.14	0.14	0.30	0.30
60	0.14	0.21	0.14	0.21	0.40	0.60	0.21	0.21	0.21	0.21	0.60	0.60
61	0.14	0.21	0.14	0.21	0.30	0.45	0.21	0.21	0.21	0.21	0.45	0.45
62	0.33	0.50	0.33	0.50	0.30	0.45	0.50	0.50	0.50	0.50	0.45	0.45
63	0.26	0.39	0.26	0.39	0.60	0.90	0.39	0.39	0.39	0.39	0.90	0.90
64	0.79	0.90	0.79	0.90	0.50	0.50	0.90	0.90	0.90	0.90	0.50	0.50
65	0.52	0.52	0.52	0.52	0.50	0.50	0.52	0.52	0.52	0.52	0.50	0.50
66	0.30	0.30	0.30	0.30	0.50	0.50	0.30	0.30	0.30	0.30	0.50	0.50
67	0.22	0.22	0.22	0.22	0.50	0.50	0.22	0.22	0.22	0.22	0.50	0.50
68	0.22	0.22	0.22	0.22	0.50	0.50	0.22	0.22	0.22	0.22	0.50	0.50
69	0.26	0.26	1.00	1.00	1.00	1.00	0.26	0.26	1.00	1.00	1.00	1.00
70	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00

Option 3: Uniform 3% ERF

	Current Assumptions						Uniform 3% ERF					
	PERS	PERS	SERS	SERS	TRS	TRS	PERS	PERS	SERS	SERS	TRS	TRS
	Female	Female	Female	Female	Female	Female	Female	Female	Female	Female	Female	Female
Age	<30	>=30	<30	>=30	<30	>=30	<30	>=30	<30	>=30	<30	>=30
54			0.02	0.04	0.03	0.05			0.04	0.04	0.05	0.05
55	0.05	0.07	0.05	0.07	0.05	0.08	0.07	0.07	0.07	0.07	0.08	0.08
56	0.05	0.07	0.05	0.07	0.10	0.15	0.07	0.07	0.07	0.07	0.15	0.15
57	0.05	0.07	0.05	0.07	0.10	0.15	0.07	0.07	0.07	0.07	0.15	0.15
58	0.05	0.07	0.05	0.07	0.10	0.15	0.07	0.07	0.07	0.07	0.15	0.15
59	0.05	0.07	0.05	0.07	0.15	0.23	0.07	0.07	0.07	0.07	0.23	0.23
60	0.14	0.21	0.14	0.21	0.20	0.30	0.21	0.21	0.21	0.21	0.30	0.30
61	0.18	0.27	0.18	0.27	0.30	0.45	0.27	0.27	0.27	0.27	0.45	0.45
62	0.30	0.45	0.30	0.45	0.30	0.45	0.45	0.45	0.45	0.45	0.45	0.45
63	0.26	0.39	0.26	0.39	0.50	0.75	0.39	0.39	0.39	0.39	0.75	0.75
64	0.82	0.90	0.82	0.90	0.50	0.50	0.90	0.90	0.90	0.90	0.50	0.50
65	0.49	0.49	0.49	0.49	0.30	0.30	0.49	0.49	0.49	0.49	0.30	0.30
66	0.30	0.30	0.30	0.30	0.25	0.25	0.30	0.30	0.30	0.30	0.25	0.25
67	0.26	0.26	0.26	0.26	0.25	0.25	0.26	0.26	0.26	0.26	0.25	0.25
68	0.26	0.26	0.26	0.26	0.40	0.40	0.26	0.26	0.26	0.26	0.40	0.40
69	0.22	0.22	1.00	1.00	1.00	1.00	0.22	0.22	1.00	1.00	1.00	1.00
70+	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00

Option 4: 3% ERRF Triggered at Age 60 with 20 Years of Service

Age	Current Assumptions						3% ERRF at Age 60 with 20 Years of Service								
	PERS	PERS	SERS	SERS	TRS	TRS	PERS	PERS	PERS	SERS	SERS	SERS	TRS	TRS	TRS
	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male	Male
								>=20			>=20			>=20	
	<30	>=30	<30	>=30	<30	>=30	<20	<30	>=30	<20	<30	>=30	<20	<30	>=30
54			0.02	0.04	0.05	0.08				0.02	0.02	0.04	0.05	0.05	0.08
55	0.05	0.07	0.05	0.07	0.05	0.08	0.05	0.05	0.07	0.05	0.05	0.07	0.05	0.05	0.08
56	0.05	0.07	0.05	0.07	0.05	0.08	0.05	0.05	0.07	0.05	0.05	0.07	0.05	0.05	0.08
57	0.05	0.07	0.05	0.07	0.05	0.08	0.05	0.05	0.07	0.05	0.05	0.07	0.05	0.05	0.08
58	0.10	0.14	0.10	0.14	0.05	0.08	0.10	0.10	0.14	0.10	0.10	0.14	0.05	0.05	0.08
59	0.10	0.14	0.10	0.14	0.20	0.30	0.10	0.10	0.14	0.10	0.14	0.14	0.20	0.30	0.30
60	0.14	0.21	0.14	0.21	0.40	0.60	0.14	0.21	0.21	0.14	0.21	0.21	0.40	0.60	0.60
61	0.14	0.21	0.14	0.21	0.30	0.45	0.14	0.21	0.21	0.14	0.21	0.21	0.30	0.45	0.45
62	0.33	0.50	0.33	0.50	0.30	0.45	0.33	0.50	0.50	0.33	0.50	0.50	0.30	0.45	0.45
63	0.26	0.39	0.26	0.39	0.60	0.90	0.26	0.39	0.39	0.26	0.39	0.39	0.60	0.90	0.90
64	0.79	0.90	0.79	0.90	0.50	0.50	0.79	0.90	0.90	0.79	0.90	0.90	0.50	0.50	0.50
65	0.52	0.52	0.52	0.52	0.50	0.50	0.52	0.52	0.52	0.52	0.52	0.52	0.50	0.50	0.50
66	0.30	0.30	0.30	0.30	0.50	0.50	0.30	0.30	0.30	0.30	0.30	0.30	0.50	0.50	0.50
67	0.22	0.22	0.22	0.22	0.50	0.50	0.22	0.22	0.22	0.22	0.22	0.22	0.50	0.50	0.50
68	0.22	0.22	0.22	0.22	0.50	0.50	0.22	0.22	0.22	0.22	0.22	0.22	0.50	0.50	0.50
69	0.26	0.26	1.00	1.00	1.00	1.00	0.26	0.26	0.26	1.00	1.00	1.00	1.00	1.00	1.00
70+	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00

Option 4: 3% ERRF Triggered at Age 60 with 20 Years of Service

[illegible]

Select Committee on Pension Policy

Age 65 Retirement Options

(October 12, 2004)

Issue

Both employers and employees have expressed concern over the normal retirement age in the Public Employees' Retirement System (PERS) Plans 2/3, the Teachers' Retirement System (TRS) Plans 2/3 and the School Employees' Retirement System (SERS) Plans 2/3. The normal retirement age for these plans is currently set at age 65. After its work session and briefing on this issue on September 7, 2004, the SCPP identified the following categories of options for further study and pricing: for PERS, TRS and SERS Plans 2/3, modify the age and service requirements for unreduced retirement and reduce the early retirement reduction factors; and for TRS 2/3 only, expand opportunities to purchase out-of-state service credit. In addition, staff was directed to consider what a 1% Plan 3 member contribution rate increase would provide in terms of funding benefit increases.

Staff

Laura C. Harper, Senior Research Analyst/Legal
360-586-7616

Members Impacted

The following table summarizes the numbers of participants in the Plans 2/3 based on the most recent actuarial valuation (using 2003 data).

	PERS 2	PERS 3	TRS 2	TRS 3	SERS 2	SERS 3
Active	117,262	17,548	7,637	47,263	21,504	27,710
Term-Vested	16,089	770	2,493	2,418	1,902	1,648

Current Situation

With respect to **retirement eligibility**, the Plans 2/3 are age-based plans. To be eligible for normal retirement, members of the Plans 2/3 must be vested and must reach age 65. The Plans 2 are defined benefit plans, and the vesting period for these plans is five years. The Plans 3 are hybrid plans, with a defined benefit component and a defined contribution component. Plan 3 members are immediately vested in their defined contribution accounts, and become vested in the defined benefit portion of their benefit after ten years of service, or after 5 years of service if 12 months of service were accrued after attaining age 54.

With respect to the **early retirement reduction factors**, it is important to distinguish early retirement and “alternate early retirement.” Currently in the Plans 2/3, members may seek early retirement after 20 years of service and attainment of age 55 with the benefit being actuarially reduced from age 65. The actuarial reduction factors are applied so that the early retirement does not cost the retirement system more than it would have had the member worked until the specified normal retirement age. In other words, since the benefit is being paid over a longer period of time, the member must take a lower benefit that is worth the same in assumed total benefit dollars as if it had been taken at normal retirement age.

Members who work 30 years (instead of 20) and reach age 55 may qualify for alternate early retirement. Alternate early retirement is not cost-neutral, as it involves a 3% per year reduction rather than the full actuarially equivalent reduction. In other words, longer service is rewarded in that the member who works thirty years is not required to take a benefit that is equivalent to the benefit the member would have received at age 65. Instead, the member takes some reduction for the fact that the pension is being paid over a longer period of time, but the total benefit is greater than if the member had waited until age 65.

The following table from the Department of Retirement Systems’ website shows the approximate effect of the current early retirement reduction factors on the retirement benefit received.

PERS, TRS and SERS Plan 2/3
Early Retirement Reduction Factors

Age at Retirement	20-29 Years of Service Credit, Benefit as % of Age 65 Benefit	30 Years of Service Credit or More, Benefit as % of Age 65 Benefit
55	37%	70%
56	40%	73%
57	43%	76%
58	49%	79%
59	55%	82%
60	61%	85%
61	67%	88%
62	73%	91%
63	82%	94%
64	91%	97%
65	100%	100%

With respect to the opportunity to purchase **out-of-state service credit** in the TRS Plans 2/3, members may currently elect to use service credit earned in an out-of-state retirement system solely for the purpose of determining the time at which the member will retire. The benefit is actuarially reduced to recognize the difference between the age a member would have first been able to retire based on service in Washington and the member's retirement age. See RCW 41.32.065. Out-of-state service may also be used to meet alternate early retirement requirements, which would result in the use of a 3% per year early retirement reduction factor (ERRF) instead of an actuarial ERRF.

Example: A member age 55 with 25 years of Washington state service credit and 5 years of out-of-state service credit is assessed 10 years worth of reductions (since he/she needs 10 years to reach age 65). The member can use 5 years of out-of-state service credit to qualify for an alternate early retirement, but the 5 years does not count as membership service for benefit purposes. Instead the Department of Retirement Systems (DRS) would use actuarial early retirement reductions for the first 5 of the 10 years and the 3% alternate early retirement reduction for the remaining 5 years. The effect on the monthly benefit is shown below:

$$\begin{aligned} & 2\% \times 25 \text{ years} \times \$6,500 \text{ (AFC)} = \$3,250 \\ & \times .61 \text{ (\% of benefit using actuarial ERRF)} = \$1,982.50 \\ & \times .85\% \text{ (\% of benefit using 3\% ERRF)} = \mathbf{\$1,685.12} \end{aligned}$$

Another way to utilize out-of-state retirement benefits in TRS is to purchase additional benefits with a rollover from an out-of-state retirement plan. The resulting contribution to the member reserve is actuarially converted to a monthly benefit at the time of retirement. See RCW 41.32.067. This cash-based approach has been in effect since 1992, and seeks to avoid the pension costs associated with giving lifelong benefits at a reduced cost.

Finally, with respect to **Plan 3 member contributions**, the current situation is that members of the Plans 3 contribute 100% of their employee contributions into their own defined contribution accounts. The defined benefit portion of the Plan 3 benefit (which represents one-half of the Plan 2 defined benefit) is funded solely by employers. Thus, currently, Plan 3 member contributions are not used to fund benefit increases involving the defined benefit.

Options that Expand Opportunities for an Unreduced Retirement in the Plans 2/3

Option 1: "Rule of 90" for unreduced retirement

A "rule of 90" would allow members to receive an unreduced retirement benefit when they reach any combination of age and service that totals 90. For example, an employee who became a plan member at age 20 could retire at age 55 with 35 years of service. Similarly, a plan member who began working at age 30 could retire at age 60 with a full benefit. Those who become plan members at age 40 or later would not benefit from the rule of 90, as there would be no combination of age and service that could result in a full retirement benefit earlier than age 65, the current normal retirement age for the Plans 2/3.

The following table illustrates the operation of a rule of 90 for any retirement system.

Illustration of Rule of 90

Age of Hire	Years of Service	Retire Age	Age Plus Years of Service
20	35	55	90
22	34	56	90
24	33	57	90
26	32	58	90
28	31	59	90
30	30	60	90
32	29	61	90
24	28	62	90
36	27	63	90
38	26	64	90
40	25	65	90

This approach would move toward a more career-based retirement benefit in that younger workers would be rewarded for long-term public service by receiving an unreduced retirement benefit prior to the time at which they would normally be expected to leave the workforce. The cost of a lifetime benefit for such individuals would be higher because the benefit would be paid over a longer period of time.

As shown below, members of the TRS would benefit from a Rule of 90 more than members of SERS or PERS because they have lower entry ages and longer service years.

**Relative Value of Rule of 90
Among Retirement Systems**

System	Average Age	Average Service	Average Age at Hire	"Rule of 90" Age
TRS	44	11	33	61.5
PERS	45	10	35	62.5
SERS	46	7	39	64.5

Providing unreduced retirement benefits for the Plans 2/3 under a "rule of 90" will impact the required actuarial contribution rates as shown below. As a result of higher contribution rates, increases in funding expenditures are also projected.

Option 1: Rule of 90

	PERS	SERS	TRS	Total
Increase in Contribution Rates				
Employee (Plan 2 Only)	0.69%	0.52%	0.93%	
Employer	0.69%	0.52%	0.93%	
<i>Cost (In Millions)</i>				
2005-2007 Biennium				
State:				
General Fund	\$21.1	\$7.5	\$56.8	\$85.4
Non-general Fund	34.7	0.0	0.0	34.7
Total State	\$55.8	\$7.5	\$56.8	\$120.1
Local Government	49.4	6.5	11.6	67.5
Total Employer	105.2	14.0	68.4	187.6
Employee	\$74.9	\$3.6	\$3.0	\$81.5
2005-2030 25 Years				
State:				
General Fund	\$591.7	\$218.1	\$1,544.4	\$2,354.2
Non-general Fund	975.7	0.0	0.0	975.7
Total State	\$1,567.4	\$218.1	\$1,544.4	\$3,329.9
Local Government	1,389.6	193.5	316.2	1,899.3
Total Employer	2,957.0	411.6	1,860.6	5,229.2
Employee	\$1,690.7	\$20.7	\$7.5	\$1,718.9

Option 2: Unreduced retirement at age 60 with twenty years of service

This approach retains some aspects of age-based retirement, but allows a lower normal retirement age for members who have served at least twenty years. Again, this approach moves toward a more career-based retirement benefit and away from the strict adherence to age-based retirement that currently exists in the Plans 2/3.

Providing unreduced retirement benefits for members of the Plans 2/3 that have reached age 60 with twenty years of service credit will impact the required actuarial contribution rates as shown below. As a result of higher contribution rates, increases in funding expenditures are also projected.

**Option 2: Unreduced Retirement at
Age 60 with 20 Years of Service**

	PERS	SERS	TRS	Total
Increase in Contribution Rates				
Employee (Plan 2 Only)	0.89%	1.05%	1.02%	
Employer	0.89%	1.05%	1.02%	
<i>Cost (In Millions)</i>				
2005-2007 Biennium				
State:				
General Fund	\$27.1	\$14.7	\$62.3	\$104.1
Non-general Fund	44.7	0.0	0.0	44.7
Total State	\$71.8	\$14.7	\$62.3	\$148.8
Local Government	63.6	13.0	12.8	89.4
Total Employer	135.4	27.7	75.1	238.2
Employee	\$96.6	\$7.2	\$3.3	\$107.1
2005-2030 25 Years				
State:				
General Fund	\$762.6	\$438.0	\$1,693.9	\$2,894.5
Non-general Fund	1,258.5	0.0	0.0	1,258.5
Total State	\$2,021.1	\$438.0	\$1,693.9	\$4,153.0
Local Government	1,792.4	388.7	346.9	2,528.0
Total Employer	3,813.5	826.7	2,040.8	6,681.0
Employee	\$2,180.8	\$41.7	\$8.2	\$2,230.7

Options that Reduce the Early Retirement Reduction Factors

Option 3: Uniform 3% *ERRF*

As discussed in the Age 65 Retirement Report dated September 1, 2004, the Plans 2/3 currently have a design that discourages early retirement. Those who retire early - age 55 with 20 years of service - must have their benefit actuarially reduced so as to avoid higher costs to the pension system. As a result, there is no economic benefit to retiring early. Alternatively, those who retire at 55 with 30 years of service must take a reduction for leaving early, but

they are rewarded for longer service by having some of the reduction covered by the plan. This is a kind of “compromise” between the need for an age-based plan to save costs, and the desire to reward those who have worked for many years.

A uniform 3% ERRF would eliminate the actuarial reduction for early retirement benefits and replace it with an across-the-board 3% reduction for anyone who leaves at age 55 with twenty years of service. [The thirty-year service distinction would become moot.] This option would move the plan away from the current age-based retirement philosophy in the Plans 2/3 and would encourage more early retirement. Because the total benefit taken at early retirement would not be actuarially equivalent to the benefit taken at normal retirement (i.e. it would be greater), there is an additional cost to the plan. This kind of option would be more helpful to members of PERS and SERS due to the fact that those plans have older entry ages and higher turnover.

A uniform 3% ERRF will impact the required actuarial contribution rates for the Plans 2/3 as shown below. As a result of higher contribution rates, increases in funding expenditures are also projected.

Option 3: Uniform 3% ERRF

	PERS	SERS	TRS	Total
Increase in Contribution Rates				
Employee (Plan 2 Only)	1.07%	1.33%	1.41%	
Employer	1.07%	1.33%	1.41%	
<i>Cost (In Millions)</i>				
2005-2007 Biennium				
State:				
General Fund	\$32.6	\$18.5	\$86.1	\$137.2
Non-general Fund	53.7	0.0	0.0	53.7
Total State	\$86.3	\$18.5	\$86.1	\$190.9
Local Government	76.6	16.5	17.7	110.8
Total Employer	162.9	35.0	103.8	301.7
Employee	\$116.2	\$9.1	\$4.5	\$129.8

2005-2030 25 Years

State:

General Fund	\$917.1	\$554.6	\$2,341.9	\$3,813.6
Non-general Fund	1,513.2	0.0	0.0	1,513.2
Total State	\$2,430.3	\$554.6	\$2,341.9	\$5,326.8
Local Government	2,155.2	492.1	479.7	3,127.0
Total Employer	4,585.5	1,046.7	2,821.6	8,453.8
Employee	\$2,621.7	\$52.5	\$11.4	\$2,685.6

Option 4: 3% ERRF triggered at age 60 with 20 years of service

One way to reduce the plan costs associated with the uniform 3% ERRF would be to raise the age at which the 3% ERRF would be triggered from 55 to 60. This option would, however, still impact the required actuarial contribution rates for the Plans 2/3 as shown below. As a result of higher contribution rates, the increases in funding expenditures are also projected.

**Option 4: 3% ERRF Triggered at
Age 60 with 20 Years of Service**

	PERS	SERS	TRS	Total
Increase in Contribution Rates				
Employee (Plan 2 Only)	0.50%	0.62%	0.61%	
Employer	0.50%	0.62%	0.61%	
<i>Cost (In Millions)</i>				
2005-2007 Biennium				
State:				
General Fund	\$15.3	\$8.7	\$37.2	\$61.2
Non-general Fund	25.2	0.0	0.0	25.2
Total State	\$40.5	\$8.7	\$37.2	\$86.4
Local Government	35.9	7.6	7.7	51.2
Total Employer	76.4	16.3	44.9	137.6
Employee	\$54.3	\$4.3	\$2.0	\$60.6

2005-2030 25 Years

State:

General Fund	\$428.4	\$258.8	\$1,013.0	\$1,700.2
Non-general Fund	707.3	0.0	0.0	707.3
Total State	\$1,135.7	\$258.8	\$1,013.0	\$2,407.5
Local Government	1,007.2	229.3	207.2	1,443.7
Total Employer	2,142.9	488.1	1,220.2	3,851.2
Employee	\$1,224.9	\$24.5	\$4.9	\$1,254.3

Expand Opportunities to Purchase Out-of-State Service Credit in the TRS Plans 2/3

Currently there is limited opportunity to utilize out-of-state service credit in the Plans 2/3 of the Teachers' Retirement System. As described above in the section entitled "Current Situation," Plan 2/3 members may elect to apply teaching service credit earned in an out-of-state retirement system solely for the purpose of determining the time at which the member may retire. This provision has been in effect since 1991.

Another way to utilize out-of-state retirement benefits in TRS is to purchase additional benefits with a rollover from an out-of-state retirement plan. The resulting contribution to the member reserve is actuarially converted to a monthly benefit at the time of retirement. See RCW 41.32.067. This cash-based approach has been in effect since 1992, and seeks to avoid the pension costs associated with giving lifelong benefits at a reduced cost.

The proposed expansion of service credit purchase opportunities in the Plans 2/3 would involve a more direct approach that would allow members to actually receive service credit in TRS for time worked in out-of-state systems. The proposal is focused on the TRS system alone and not the other Washington State retirement systems, presumably to address what in the past have been identified as recruitment and retention issues within the teaching profession.

Washington's Department of Personnel (DOP) has identified other public professions and job categories with recruitment and retention issues. They include the following: Therapist/Consultants, Ergonomists, Industrial Hygienists, Pressure Vessel Inspectors, Registered Nurses, Nursing Consultants (Institutional), Dentists, Physicians, Pharmacists, Pharmacist Investigators, AGO Investigators/Analysts, Investigators (Eastern Washington),

Public Health Advisors, Radiation Health Physicists, Curators and IT Positions (with specialized programming requirements). See attached e-mail correspondence from Dorothy Gerard of DOP. Thus adoption of this option could lead to “leapfrogging”, i.e. members and/or employers wanting the same or better benefits for other plans in other retirement systems.

Option 5: Allow members with at least 5 years of Washington State service to purchase up to 10 years of out-of-state service credit.

In developing and pricing this option, certain assumptions were made and various limitations were imposed. They are as follows:

- This option assumes a 5-year window to purchase the service credit upon completion of 5 years of service in TRS Plan 2 or 3. Since Plan 3 has 10-year vesting, implementation of this option would require a provision allowing for a refund of contributions for purchasing out-of-state service credit in the event that the member fails to vest.
- The member must not be currently receiving or currently eligible to receive a retirement benefit from another state that includes the out-of-state service credit to be purchased.
- The amount of service credit to be purchased cannot exceed 10 years or the amount of in-state service, whichever is less.
- In computing the cost of the out-of-state service credit, the interest rate is the assumed actuarial rate of return.
- This option assumes a cost that is computed very much as if the service had occurred in Washington. The Plan 2 member must pay both the employer and employee contributions with interest. The contribution rates are tied to the entry age normal cost rate instead of actual rates for the period in order to provide more consistency in pricing the service credit purchases.
- Plan 3 members would pay only the employer contribution plus interest since they receive only one-half the defined benefit (and their defined benefit is funded only by the employer). It would be necessary to provide for a refund of contributions to members who waive the defined benefit as authorized in RCW 41.32.837.

- The service credit purchased would be membership service, and may be used to qualify the member for retirement.

The amount of actual out-of-state service that members have in other systems and for which they may seek to purchase Washington service credit is unknown, as the Office of the State Actuary (OSA) has no direct access to data that is currently being collected for this purpose. This is a significant variable in determining the cost of this option. In order to make reasonable assumptions along these lines, the OSA has utilized data from an informal survey conducted by Mr. Lee Goeke of the Executive Committee of the SCPP. According to Mr. Goeke, the survey results account for about 13% of the teachers employed within the state, or 6,850 TRS members. The average out-of-state service for this group was 1.58 years. The ten-year cap lowered the average to 1.34 years for this sample.

It should be noted in the discussion of this option that purchasing out-of-state service credit is a complicated topic with many policy and fiscal implications. The topic is broad enough to be a separate issue worthy of study and discussion in the manner of other large issues that have been part of the SCPP's work plan during this interim. Many of the assumptions made for pricing this particular option were made by the OSA staff - not to usurp the SCPP as policy makers, but to provide some reasonable parameters that would allow for pricing this option in time for the October 19, 2004 meeting.

Allowing service credit for time outside the plan at less than actuarial cost will impact the required actuarial contribution rates of the TRS Plans 2/3 as shown below. As a result of higher contribution rates, increases in funding expenditures are also projected.

**Expand Opportunities to Purchase
Out-Of-State Service Credit
in TRS Plans 2/3**

Increase in Contribution Rates	TRS	
	Low Estimate	High Estimate
Employee (Plan 2 Only)	0.09%	0.16%
Employer	0.09%	0.16%

<i>Cost (In Millions)</i>	TRS	
	Low Estimate	High Estimate
2005-2007 Biennium		
State:		
General Fund	\$5.5	\$9.7
Non-general Fund	\$0.0	\$0.0
Total State	\$5.5	\$9.7
Local Government	\$1.1	\$1.9
Total Employer	\$6.5	\$11.6
Employee	\$0.3	\$0.5
2005-2030 25 Years		
State:		
General Fund	\$149.3	\$265.4
Non-general Fund	\$0.0	\$0.0
Total State	\$149.3	\$265.4
Local Government	\$30.4	\$54.1
Total Employer	\$179.7	\$319.5
Employee	\$0.7	\$1.3

Examples of TRS Payments for 2 years of Out-of-State Service Credit:

Plan 2 Member: $\$50,000 \times 11.80\% \times (1+1.08) = \mathbf{\$12,272}$

Plan 3 Member: $\$50,000 \times 5.9\% \times (1+1.08) = \mathbf{\$6,136}$

Assumptions and Methods:

The \$50,000 is pay for a sample member. The average was around \$47,000, but it varies by plan. The 11.80% for Plan 2 is the 2002 Entry Age Normal Cost (EANC), which excludes gain-sharing. The 11.80% for Plan 2 includes both the member and employer contribution. The 5.90% for Plan 3 is half the 11.80% and represents the employer EANC. The purchase of the first year has no interest. The second year interest rate is 8%. Additional years would have included compound interest.

Funding Option - 1% Plan 3 Member Contribution

In addition to pricing the above options, staff was also directed at the September 7, 2004 SCPP meeting to determine how much funding a 1% Plan 3 member contribution would provide for possible benefit enhancements in the Plans 2/3. This "funding option" was specifically raised in connection with proposed options 1 and 2 discussed above ("rule of 90" and unreduced retirement at age 60 with 20 years of service).

This funding approach should be examined in the context of existing funding policy in order to assess the impacts of the proposal. The actuarial funding chapter (Chapter 41.45 RCW) codifies certain funding policies that are currently applicable to the Plans 2/3. They include the following:

- (1) to continue to fully fund the plans 2/3;
- (2) to establish predictable long-term employer contribution rates which will remain a relatively constant proportion of future state budgets; and
- (3) to fund all benefit increases over the working lives of the members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

The other major funding policy applicable to the plans 2/3 can be gleaned from examining the records of the Joint Committee on Pension Policy (JCPP). The Plan II Retirement Age Report (October 1992) identified certain dissatisfaction with the Plans 2 and was followed by the JCPP's 1993 Proposed Retirement Benefit Policies for the possible new Plans 3. The JCPP proposal included continuation of the Plan 2 funding policy that costs should be shared equally between employees and employers. This **cost-sharing policy** was implemented in both the plan design for the Plans 3 and in the funding practices adopted by the legislature over time.

In addition, the Plans 2/3 were designed to include an **equivalent employer-provided benefit**. As provided in the JCPP's 1993 Proposed Policies, the Plans 3 were intended to continue the Plan 2 policy that all state and local employees should have essentially the same retirement plans. The way to keep the Plan 3 benefits equivalent to Plan 2 benefits was to assure that the employer-provided defined benefit was same in both plans. Thus both Plan 2 and Plan 3 employers fund a defined benefit that is equal to 1% of average final

compensation (AFC). The commitment to Plan 2/3 equivalency carries over into the **structure of the retirement trust funds** for the Plans. The Plan 2/3 trust funds are combined for PERS, TRS and SERS respectively. See e.g. RCW 43.84.092(4)(a) and RCW 41.45.050(4), (5) and (6).

If a specific option to improve benefits in the Plans 2/3 were adopted, along with legislation mandating a 1% Plan 3 member contribution to help pay for the benefit, the following impacts would occur. This approach to funding would require a significant restructuring of the design for the Plans 2/3 as well as changes to basic funding policies.

- There would be a deviation from the cost-sharing policy. Plan 3 employees would be paying more for an improvement to the defined benefit than employers would pay for that same plan improvement.
- Plan 3 members would be paying more than Plan 2 members for the same employer-provided benefit.
- The Plans 2/3 would no longer be essentially equivalent. PERS members who chose to transfer to Plan 3 may regret their decisions and there may be both legal and political pressure to provide some kind of relief to those Plan 3 members. Those who are mandated into the Plans 3 may seek recourse for having to pay for increased Plan 2 benefits, especially if contribution rates for Plan 2 members are not affected.
- In order for the Plan 3 member contributions to be used to offset the costs of the benefit improvements, it would be necessary to provide for the payment of Plan 3 member contributions into the defined benefit trust fund. Currently, all Plan 3 member contributions are paid into the member's defined contribution accounts.
- If 1% of Plan 3 member contributions were mandated into the trust fund, there is a question about whether these funds should be part of a combined Plan 2/3 trust fund. The trust funds may have to be split. This would also deviate from the existing policy constraint of maintaining equivalent benefits for all public employees.
- The payment of a mandatory 1% Plan 3 member contribution could impact the permissible annual amounts that Plan 3 members may contribute to their defined contribution accounts.

- Significant amendments would be required to current plan provisions.
- Significant administrative and communication impacts would be generated.

A mandatory 1% Plan 3 member contribution would generate the following amounts in dollars for TRS, SERS and PERS.

Funding Option - 1% Plan 3 Member Contributions				
	PERS	SERS	TRS	Total
Increase in Contribution Rates				
Employee (Plan 3 Only)	1.00%	1.00%	1.00%	
Employer	0.00%	0.00%	0.00%	
<i>Cost (In Millions)</i>				
2005-2007 Biennium				
Employee (Plan 3 Only)	\$32.0	\$18.0	\$62.6	\$112.6
2005-2030 25 Years				
Employee (Plan 3 Only)	\$1,799.8	\$740.4	\$1,973.5	\$4,513.7

Subject: FW: Recruitment and Retention

-----Original Message-----

From: Gerard, Dorothy (DOP) [mailto:DorothyG@DOP.WA.GOV]
Sent: Monday, September 27, 2004 8:27 AM
To: Harper, Laura
Subject: RE: Recruitment and Retention

Not specifically. But some of the things we look at are:

Number of candidates (if any) on employment lists (registers); under-qualified people being on the registers; agency dis-satisfaction with the quality of candidates; current employees leaving for better salaries and/or working conditions.

Dorothy Gerard
Assistant Director
Washington State Department of Personnel
360-664-6343
Fax 360-586-4694
Dorothyg@dop.wa.gov <mailto:Dorothyg@dop.wa.gov>

-----Original Message-----

From: Harper, Laura [SMTP:Harper.Laura@leg.wa.gov]
Sent: Monday, September 27, 2004 8:24 AM
To: Gerard, Dorothy (DOP)
Subject: RE: Recruitment and Retention

Thank you Dorothy. I do have a question - are there specific criteria for categorizing a job classification as a problem area for recruitment and retention?

-----Original Message-----

From: Gerard, Dorothy (DOP) [mailto:DorothyG@DOP.WA.GOV]
Sent: Monday, September 27, 2004 8:17 AM
To: Harper, Laura
Subject: RE: Recruitment and Retention

Please accept my apologies for the late response. Let me know if you have questions about this group of problem areas. As you can see, quite a few are health care related. Here are some categories of classes that are experiencing recruitment and retention problems:

- Therapist Consultant
- Ergonomist
- Industrial Hygienists
- Pressure Vessel Inspectors
- Registered Nurses
- Nursing Consultant, Institutional
- Dentists
- Physicians
- Pharmacist
- Pharmacist Investigator
- AGO Investigator/Analyst
- AGO Senior Investigator/Analyst
- Investigators (Eastern Washington)
- Public Health Advisors
- Radiation Health Physicist
- Curators
- IT Positions (w/ specialized programming requirements)

Dorothy Gerard
Assistant Director
Washington State Department of Personnel
360-664-6343
Fax 360-586-4694
Dorothyg@dop.wa.gov <<mailto:Dorothyg@dop.wa.gov>>

-----Original Message-----

From: Harper, Laura [SMTP:Harper.Laura@leg.wa.gov]
Sent: Friday, September 24, 2004 10:33 AM
To: DorothyG@DOP.WA.GOV
Subject: Recruitment and Retention

Hi Dorothy. I am in the process of putting together October meeting materials for the Select Committee on Pension Policy. You had mentioned providing some materials on recruitment and retention to our office at the beginning of this week so I just wanted to check in with you regarding the status of your efforts in this regard. We usually assemble a very large amount of material for the committee and the public during the interim, so it gets expensive for us to reproduce things in a short time frame. Also, I would ideally like to have time to review the materials in advance of mailing so that I can incorporate any relevant information into my presentation to the committee. Would it be possible to receive your information this week?

Please let me know if you have any questions or if I can be of assistance in any way. Thanks, and I look forward to hearing from you.

Laura Harper
586-7616

Age 65 Options

Laura Harper
Senior Research Analyst

Select Committee on Pension Policy
October 19, 2004

Age 65

- Plans 2/3 design incorporates age-based retirement.
- 65 is age employees are presumed to leave the workforce.
- Plan design creates pressure to allow earlier retirement.

History, Plans 2/3

- Cost was a policy driver in creation of Plan 2/3 design.
- Shift was from career-based retirement to age-based retirement.
- Employers and employees have expressed concern over the design.

Plan 2/3 Trade-offs

- Work longer.
- Get automatic cost-of-living increase (COLA).
- No 60% cap on average final compensation (AFC).

Plan 2/3 Funding Policies

- Share costs equally between employers and employees.
- Pay off liabilities for past-service benefits before employees reach age 65.

Other Plan 2/3 Policies

- Employer-provided defined benefit in Plans 2 is equivalent to the employer-provided benefit in Plans 3.
- Carries forward the policy that all state and local employees should have essentially the same benefit.

Allowing Earlier Retirement – 3 Categories of Options

- Expand opportunities for an unreduced retirement.
- Reduce the early retirement reduction factors.
- Expand opportunities to purchase out-of-state service credit.

Option 1: Rule of 90

- Provides unreduced retirement with any combination of age and service that equals 90.
- Benefits those who are hired at younger ages and stay for an entire career.
- Does not benefit those hired at age 40 or later.

Option 2: Unreduced Retirement at 60/20

- This option is more generous to employees than a rule of 90, so costs are higher.
- Option 2 is perhaps easier to understand than the Rule of 90.
- 60/20 is less flexible than Rule of 80, but Rule of 80 can result in very early retirement ages.

Option 3: Uniform 3% ERRF

- Eliminates the actuarial reduction for early retirement.
- Creates an “across-the-board” early retirement reduction of 3% per year of service starting at age 55.
- This approach benefits those with older entry ages and higher turnover.

Option 4: 3% ERRF at 60/20

- This option raises the age at which the 3% ERRF would be triggered from 55 to 60.
- This results in a lower cost than for Option 3.

Estimated Effect on Contribution Rates

Increase In Rates	PERS	SERS	TRS
1: Rule of 90			
Employee (Plan 2 only)	0.69%	0.52%	0.93%
Employer	0.69%	0.52%	0.93%
2: 60/20			
Employee (Plan 2 only)	0.89%	1.05%	1.02%
Employer	0.89%	1.05%	1.02%
3: Uniform 3% ERRF			
Employee (Plan 2 only)	1.07%	1.33%	1.41%
Employer	1.07%	1.33%	1.41%
4: 3% ERRF at 60/20			
Employee (Plan 2 only)	0.50%	0.62%	0.61%
Employer	0.50%	0.62%	0.61%

Estimated Total Employer Costs in Millions

2005-07 Cost	PERS	SERS	TRS	Total
1: Rule of 90 Employer	\$105.2	\$14.0	\$68.4	\$187.6
2: 60/20 Employer	\$135.4	\$27.7	\$75.1	\$238.2
3: Uniform 3% ERRF Employer	\$162.9	\$35.0	\$103.8	\$301.7
4: 3% ERFF at 60/20 Employer	\$76.4	\$16.3	\$44.9	\$137.6

Estimated Total Employer Costs in Millions

25 Year Cost	PERS	SERS	TRS	Total
1: Rule of 90 Employer	\$2,957.0	\$411.6	\$1,860.6	\$5,229.2
2: 60/20 Employer	\$3,813.5	\$826.7	\$2,040.8	\$6,681.0
3: Uniform 3% ERRF Employer	\$4,585.5	\$1,046.7	\$2,821.6	\$8,453.8
4: 3% ERRF at 60/20 Employer	\$2,142.9	\$488.1	\$1,220.2	\$3,851.2

Estimated Total Plan 2 Employee Costs in Millions

2005-07 Cost	PERS	SERS	TRS	Total
1: Rule of 90				
Employee	\$74.9	\$3.6	\$3.0	\$81.5
2: 60/20				
Employee	\$96.6	\$7.2	\$3.3	\$107.1
3: Uniform 3% ERRF				
Employee	\$116.2	\$9.1	\$4.5	\$129.8
4: 3% ERRF at 60/20				
Employee	\$54.3	\$4.3	\$2.0	\$60.6

Estimated Total Plan 2 Employee Costs in Millions

25 Year Cost	PERS	SERS	TRS	Total
1: Rule of 90				
Employee	\$1,690.7	\$20.7	\$7.5	\$1,718.9
2: 60/20				
Employee	\$2,180.8	\$41.7	\$8.2	\$2,230.7
3: Uniform 3% ERRF				
Employee	\$2,621.7	\$52.5	\$11.4	\$2,685.6
4: 3% ERRF at 60/20				
Employee	\$1,224.9	\$24.5	\$4.9	\$1,254.3

Option 5: Credit for Out of State Service

- Suggested as a TRS 2/3 option only.
- Allows for earlier retirement and increased benefits.
- Topic of this magnitude typically involves a separate study.
- Estimated costs based on many assumptions and data as outlined in report.

Estimated Cost in Millions : Option 5

	TRS	
	Low Estimate	High Estimate
Increase in Contribution Rates		
Employee (Plan 2 Only)	0.09%	0.16%
Employer	0.09%	0.16%
2005-07 Biennium Cost		
State		
General Fund	\$5.5	\$9.7
Non-General Fund	<u>\$0.0</u>	<u>\$0.0</u>
Total State	\$5.5	\$9.7
Local Government	\$1.1	\$1.9
Total Employer	\$6.5	\$11.6
Employee	<u>\$0.3</u>	<u>\$0.5</u>

Estimated Cost in Millions: Option 5

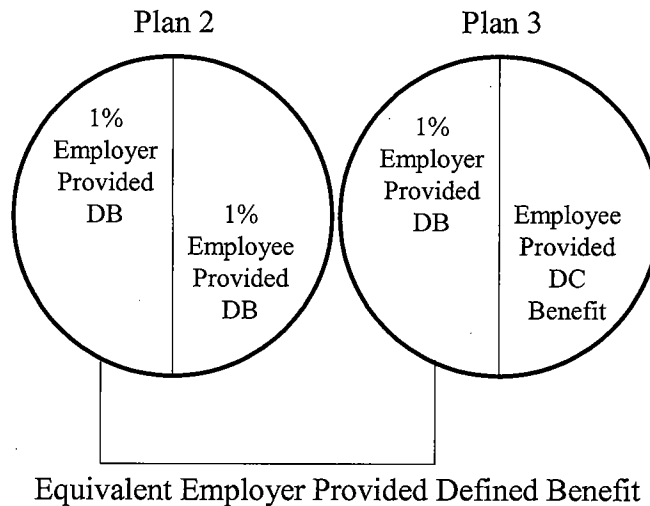
	TRS	
	Low Estimate	High Estimate
25 Year Cost		
State		
General Fund	\$149.3	\$265.4
Non-General Fund	\$0.0	\$0.0
Total State	\$149.3	\$265.4
Local Government	\$30.4	\$54.1
Total Employer	\$179.7	\$319.5
Employee	\$0.7	\$1.3

Funding Option: 1% Plan 3 Only Member Contribution

- Would generate significant revenue.
- Would create an imbalance in the Plan 2/3 structure.



Current Plan 2/3 Funding Structure



Consequences of Imbalance

- Deviation from cost-sharing policy.
- Plan 3 members pay more than Plan 2 members for same employer-provided benefit.
- Plans 2/3 are no longer equivalent.
- Trust fund must be restructured.

Other Impacts

- Could limit permissible annual Plan 3 member contributions.
- Significant plan amendments required.
- Significant administrative and communications impacts generated.

Funding Option: 1% Plan 3 Member Contribution

	PERS	SERS	TRS	Total
<i>Increase in Contribution Rates</i>				
Employee (Plan 3 only)	1.00%	1.00%	1.00%	
Employer	0.00%	0.00%	0.00%	
<i>Cost (in Millions)</i>				
2005-2007 Biennium				
Employee (Plan 3 Only)	\$32.0	\$18.0	\$62.6	\$112.6
2005-2030 25 Years				
Employee (Plan 3 Only)	\$1,799.8	\$740.4	\$1,973.5	\$4,513.7

Age 65 Options

- Reflect a change in plan design.
- Increase liabilities for past-service benefits.
- May alter the cost-sharing relationship, depending on funding source(s).
- Benefit different systems and groups within the systems.
- Reflect a policy change with regard to the purpose of retirement.

Select Committee on Pension Policy

LEOFF 1 Issues

(October 18, 2004)

Issue	Description	Fiscal Impact
Liability	Actuarial present value of fully projected benefits	\$4,338 million
	Based on actuarial value of assets.	\$757 million
Surplus (Deficit) at 9/30/02*	Based on market value of assets.	\$(278) million
	Amount required to keep the plan in full funding based on current actuarial assumptions and benefits.	\$278 million
Survivor Benefits¹	HB 3173: Allow the spouse from a post-retirement marriage to receive fractional survivor benefits (actuarially adjusted) even with the presence of a qualified ex-spouse.	\$0
Contributions to Medical Accounts¹	HB 3174: Establish medical accounts using contribution rate savings of employers and members to help employers pay for catastrophic illnesses of members or beneficiaries.	\$0 impact on LEOFF 1, \$8 million impact on employers and members
Disability Board Membership	HB 3114 / SB 6355: Clarify the qualifications of the members eligible to vote and serve on disability boards – must be active or retired from an entity subject to the jurisdiction of the board. If no fire fighters or police officers are eligible to vote, remaining eligible LEOFF 1 members will elect a second board member.	\$0
60% Benefit Cap	HB 2914: Remove the 60% benefit cap in LEOFF 1.	\$19 million reduction in surplus
70% Benefit Cap	HB 2416: Raise the 60% benefit cap in LEOFF 1 to 70%.	\$16 million reduction in surplus
End Contribution Holiday	Begin employer and member contributions before the plan emerges from fully funded status (7/1/05).	\$13 million increase in surplus
Residual Surplus (Deficit)²	Amount of surplus (deficit) after enactment of legislative proposals.	\$(284) million

* *Future forecasts, which will recognize more recent market performance, may show different results.*

¹ *Also may have an administrative impact on the Department.*

² *Based on the removal of the 60% benefit cap and resumption of contributions.*

Select Committee on Pension Policy

LEOFF 1 Issues

(October 12, 2004)

Issues

Among the suggested issues for the Select Committee on Pension Policy (SCPP) to hear in the 2004 interim were those dealing with the Law Enforcement Officers' and Fire Fighters' plan 1 (LEOFF 1). These issues range from funding and contribution rates, survivor benefits, contributions to medical accounts, disability board membership, and the 60% benefit cap. Recent legislative proposals have sought to address most of these issues. This report will provide background information on the LEOFF 1 plan, and briefly discuss the fiscal and policy impact of each of these issues.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Members Impacted

The LEOFF 1 plan has, as of the most recent valuation, 991 active members and 8,054 retirees.

Current Situation

The LEOFF plan was created at the request of numerous municipalities and local governments in Washington whose public safety related retirement plans had become too costly. Throughout the post-war era, smaller municipalities attempted to keep up with the more generous large-city retirement plans. In doing so, they became less able to pay for the ever increasing benefits. The State agreed to establish a consolidated plan that would require

retirement contributions from employees, employers, and the State. Among the stipulations agreed to in this plan consolidation was that no member's prior act benefits would be negatively impacted.

The LEOFF 1 plan was created on March 1, 1970 (Chapter 209 Laws of 1969), and closed on September 30, 1977 with the creation of LEOFF 2. Statutes governing the LEOFF 1 plan are found in Chapter 41.26 RCW. A comprehensive description of LEOFF 1 plan provisions can be found in Appendix A.

Retirement Benefit: LEOFF 1 is a defined benefit plan covering full-time fully compensated law enforcement officers and fire fighters. Eligibility for membership generally required meeting minimum medical, health, and age standards. It provides a retirement benefit equal to 2% of a member's final average salary, or FAS (the basic salary attached to the position or rank at retirement if held for at least 12 months) times their years of service, to a maximum of 30 years. Members are eligible to retire after 5 years of service and attainment of age 50.

Disability Benefit: A LEOFF 1 member who becomes disabled, as determined by their local disability board, is eligible to receive a benefit equal to 50% of FAS with an additional 5% of FAS for each dependent child to a maximum of 60% of FAS. LEOFF 1 members do not pay into the State Worker's Compensation program and thus are not eligible for those disability benefits.

Survivor Benefit: Survivor benefits for active members are equal to 50% of the member's FAS at time of death, or the amount the member would have received at age 50, or the amount the member was receiving if retired with a duty

disability. This allowance may increase an additional 5% of FAS for each dependent child to a maximum of 60% of FAS.

Survivors may also receive a \$150,000 payment if the member dies in service or from injuries sustained in the commission of duties.

The survivor benefit for inactive members, if the spouse is married to the member at least 1 year prior to retirement, is the same benefit the member received, including the allowance for children.

Post-retirement Benefits: Retired LEOFF 1 members are provided necessary medical services by their employer (this does not include spousal coverage).

Retired members may work for any non-LEOFF employer without a reduction of benefits.

LEOFF 1 retirement benefits are fully indexed to the annual changes in the Seattle CPI-W.

Federal Benefits: There are also benefits provided by sources outside the LEOFF 1 plan. The U.S. Department of Justice, Bureau of Justice Assistance provides disability benefits, death benefits, and educational assistance benefits through the Public Safety Officers Benefits Program.

History

Five bills went before the 2004 legislature dealing with LEOFF 1 pension issues. Two of the bills were related to the 60% cap on FAS used in determining a member's maximum retirement benefit. HB 2416 proposed raising the limit to 70% of FAS, and HB 2914 proposed eliminating the cap entirely; both bills received a hearing but neither moved from committee. HB

3114 / SB 6355 dealt with disability boards; they did not pass out of either fiscal committee. The remaining bills dealt with survivor benefits (HB 3173), and establishing medical accounts to help employers pay for catastrophic illnesses (HB 3174); neither received a hearing. These legislative proposals will be discussed in the "Issues" section of this report.

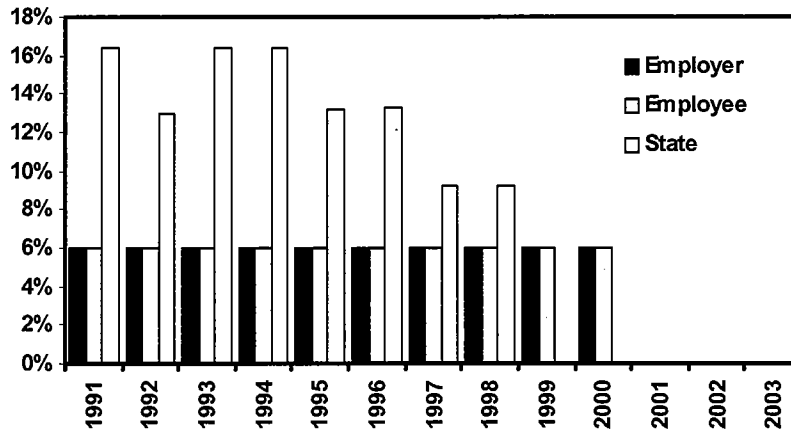
The following is a list of the most recent LEOFF 1 legislation sponsored by the former Joint Committee on Pension Policy (JCPP) to pass into law.

Year	Session Law	Subject
2003	Ch 030 L 03	Disability boards
2003	Ch 032 L 03	Fallen Hero survivor benefits
2002	Ch 158 L 02	Survivor benefits
2000	Ch 186 L 00	Survivor option flexibility
1999	Ch 134 L 99	Death benefits
1998	Ch 157 L 98	\$150,000 death benefit
1997	Ch 122 L 97	Portability

Funding Sources

At this time, no contributions are being made to the LEOFF 1 retirement plan. State contributions were suspended in July, 1999, and member and employer contributions were suspended in May, 2000. The plan had actually reached fully funded status in 1997. When contributions were being made to LEOFF 1, statutes required members and employers both to contribute 6% of salary. The State then contributed the required costs of the system in excess of those met by the members and employers. In many years the State contribution was well above the member and employer contributions (see Figure 1).

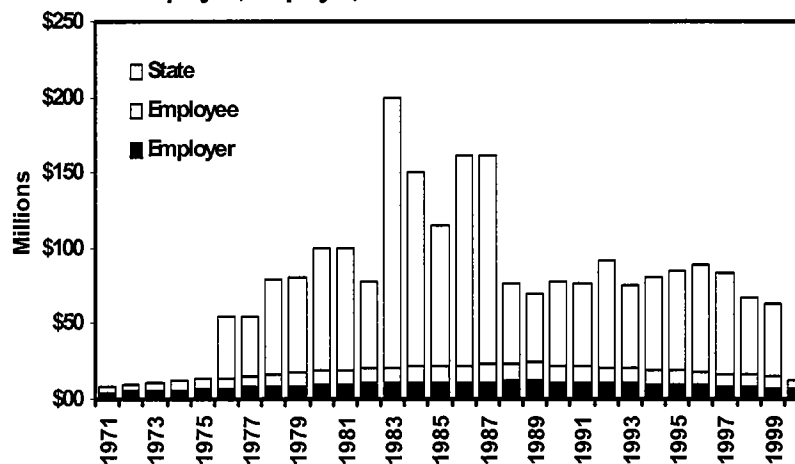
Figure 1
Employer, Employee, and State Contribution Rates to LEOFF 1



Source: Office of the State Actuary

The First Actuarial Valuation of the Washington Law Enforcement Officers' and Fire Fighters' Retirement System, submitted to the Public Employees' Retirement System and forwarded to the Governor in October of 1970, recommended that the State contribute 33.16% of pay. In the first 5 years of its existence, however, the State made no contributions to LEOFF 1 (see Figure 2). But beginning in 1976, and continuing through 1999, annual State contributions were significantly above the employer and employee contributions, averaging just over 40% of pay (see Appendix B).

Figure 2
Total Employee, Employer, and State Contributions to LEOFF 1

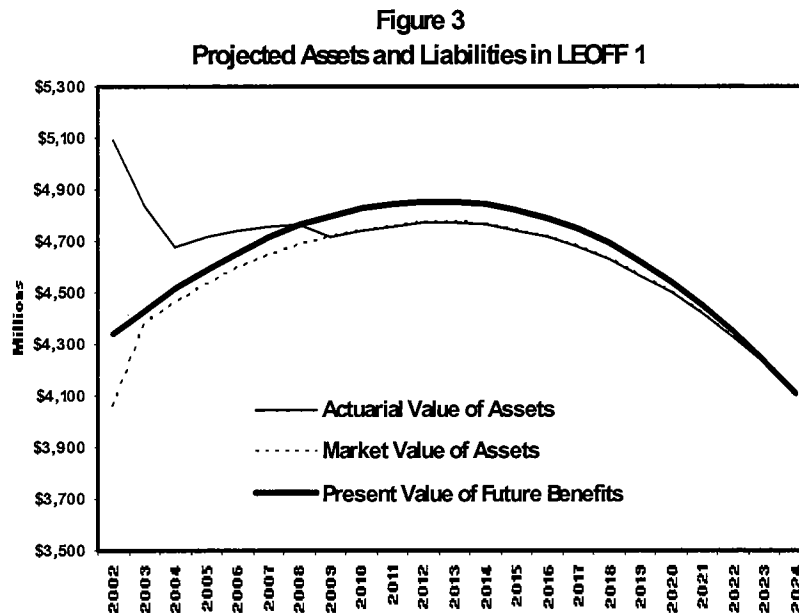


Source: Consolidated Annual Financial Reports

Funding Ratio

As of the 2003 valuation, LEOFF 1 had a funded ratio of 112%, meaning there were \$1.12 in actuarial assets for every \$1.00 of liabilities. The funding ratio had changed very little between 1987 and 1994, hovering in the mid-60% range. Beginning in 1995, thanks to the outsized market returns, continued contributions, and low inflation, that funded ratio began increasing. By 2000, in conjunction with the new valuation interest rate which increased from 7.5% to 8.0%, the LEOFF 1 funding ratio peaked at 136%.

Based on current projections, the plan is expected to emerge from its surplus position in the 2009-2011 biennium (see Figure 3). Poor market performance on the plan assets in 2000-2002, and no contributions over the past several years are the primary cause. Still, the assets and liabilities of the plan are tracking very closely; even when the assets dip below the liabilities, the funded ratio is not expected to fall below 99%. Future forecasts, which will recognize more recent market performance, may show different results.



When the plan does exhaust its surplus, contribution rates from employers and employees will resume, albeit on the relatively small payroll that remains. Then, depending on the funded status of the plan, State contributions may resume as well.

ISSUES

The following sections will include brief background discussions, policy implications, and fiscal impact of the various legislative proposals forwarded to the legislature in the last session. A final issue deals with the contribution rate holiday; it has not been addressed in any previous legislative proposal.

Survivor Benefits

Survivor benefits provide ongoing retirement income to a designated beneficiary after the death of the original member. For the survivor of a LEOFF 1 member who died prior to retirement, the benefit is 50% of the member's FAS, with 5% per child allotments to a maximum of 60% of FAS. These benefits are provided to eligible survivors as part of the plan design, i.e. at no additional cost to the member.

If a LEOFF 1 member dies in service or from injuries sustained in the commission of duties, survivors also receive a \$150,000 lump-sum from the plan.

Spouses of active LEOFF 1 members are eligible for a survivor benefit regardless of how long they had been married. Spouses of terminated vested members who have at least 20 years of service credit, spouses of duty disability retirees, and spouses of service retirees must have been married to the member at least one year before the member's separation from service to be eligible for an unreduced survivor benefit.

Ex-Spouse Survivor Benefits: Ex-spouses of LEOFF 1 members may also qualify for survivor benefits if they divorced prior to the member's separation from service and entered into a court order or court approved property settlement after July 1, 2003. In such an instance, the ex-spouse may be awarded a portion of the member's benefit and survivor benefit if that benefit is so designated in the order or settlement

Earlier provisions in LEOFF 1 required ex-spouses to meet stringent criteria to be eligible for survivor benefits. Prior to 1980, ex-spouses could only qualify if they had been married to the member for 30 years, 20 of which were before the member retired. More recently, an ex-spouse could qualify if the member had 30 years of service and they had been married at least 25 years. The benefit

for a spouse who divorced and entered into property settlement prior to July 1, 2003 will cease upon the death of the member. Even a spouse who divorced after 40 years of marriage would not qualify for continuing benefits if the member had less than 30 years of service.

Post Retirement Marriage Survivor Benefits : In an option that was established under 2002 legislation, and has never been offered before (even in prior act plans that were closed with the implementation of LEOFF 1) members who marry after retirement may designate their new spouse as a beneficiary. Members may do so during a one-year window that begins one year after the date of marriage. To make such a designation, there may not be a qualified ex-spouse receiving a portion of the member's retirement benefit under a court approved property settlement. To receive this benefit the member's allowance is actuarially reduced. A member can chose among several survivor options in which a specific percent of their adjusted allowance is passed on to their survivor. Figure 4 illustrates the joint and survivor options for a current service retiree who is 5 years older than their spouse. Option factors are found in Appendix C.

Figure 4
LEOFF 1 Survivor Allowance Options:
Member 5 Years Older than Spouse

Option	Factor	Joint Benefit	Survivor Benefit
Single Life	1.000	\$3,642*	\$0
Joint & 50%	0.921	\$3,354	\$1,677
Joint & 66⅔%	0.898	\$3,271	\$2,181
Joint & 100%	0.854	\$3,110	\$3,110

* \$3,642 is the average service retiree benefit per month for new service retirees as of the 2003 valuation.

Recent Legislation: HB 3173 was introduced in the 2004 legislative session. It would have amended the post retirement spousal survivor benefit so that a spouse from a post-retirement marriage could receive a survivor benefit even though there may be a qualified ex-spouse receiving a portion of the member's retirement benefit under a court approved property settlement. The bill did not receive a hearing.

Legislative Interest: While there has been no recent legislation, there is interest in acting on the ex-spouse survivor benefits issue (see Morton's letter as attachment). As noted, benefits to many ex-spouses may cease after the member's death. This has the effect of removing a significant income source to those who may have no alternatives.

Policy Considerations: Implicit retirement policies outlined by the former Joint Committee on Pension Policy state that "Pension benefits should meet the needs of employees, retirees and employers within available resources," and "Retirees should have more flexibility in determining the form and timing of their benefit." The provisions allowing ex-spouses and spouses from post-retirement marriages to receive survivor benefits are based on these policies. Any expansion of eligibility for multiple survivors to receive fractional benefits via an actuarial reduction to the member's benefit would not be in conflict with these policies.

Fiscal Impact: As the benefits are actuarially reduced, there would be no fiscal impact (Fiscal notes are found in Appendix D), but the addition of new beneficiaries would have an administrative impact on the Department.

Contributions to Medical Accounts

When the LEOFF 1 plan reach fully-funded status, contribution rates were suspended for employees, employers, and the State. This represented a savings for employers and the State, and a pay increase for members. A supplemental retirement benefit funded using all or a portion of monies saved from the suspension of contribution rates would not be unprecedented, but some benefit proposals may have some unresolved tax implications.

Recent Legislation: HB 3174 was introduced in the 2004 legislative session. Its aim was to establish medical accounts using contribution savings of employers and members to help employers pay for catastrophic illnesses of members or beneficiaries. The bill did not receive a hearing.

Policy Considerations: Retiree medical accounts are governed by IRS code that requires specific funding levels of the underlying pension plan (120%-125%) prior to creation, and limits the amount of contributions to such accounts. It is uncertain that such contributions required under HB 3174 would be covered under existing IRS code; tax counsel would need to be consulted. Bill language calls for the money in these accounts to be used for

the “catastrophic medical expenses of employers for the benefit of members or beneficiaries...” Currently, necessary medical services to LEOFF 1 retirees are provided by each member’s employer. This bill would provide catastrophic medical expense coverage to beneficiaries that has not previously been available.

Fiscal Impact: There is no fiscal impact on the retirement plan, but if instituted in 2005, there would be an \$8 million long-term impact on both members and employers and an administrative impact on the Department.

Disability Board Membership

Decisions on eligibility for LEOFF 1 disability and medical benefits are made by city and county LEOFF 1 disability boards. Disability benefits may be granted for both duty and non-duty disabilities.

Each city with a population of 20,000 or more has a LEOFF 1 disability board. Each county also has a disability board, and these county boards have jurisdiction over LEOFF 1 members not covered by a city disability board. Under current law, one of the members of a county board must be a member of the legislative body of a city or town in the county that does not have its own board. This member must be chosen by a majority of the mayors of the affected cities or towns.

Fire fighter and law enforcement officers serving on the disability boards are elected by LEOFF 1 members. All members of LEOFF Plan 1 and 2 may serve on disability boards, but only LEOFF 1 members may vote to elect the LEOFF members.

Other disability board members are not required to be LEOFF 1 members.

There are currently fewer than 1,000 active members, and in a few years there will be very few. When the last active LEOFF 1 member retires, and when all disabled LEOFF 1 members reach age 60, the disability boards may be discontinued. Until then, they are necessary.

Declining numbers of active members has already resulted in situations that cannot be accommodated under existing disability board membership provisions. Board membership is to include one active or retired police officer,

and one active or retired fire fighter. Among these remaining active and retired members in certain jurisdictions there may be no fire fighters, or no police officers. Current disability board membership provisions are not crafted to accommodate these circumstances.

Recent Legislation: Companion bills HB 3114 and SB 6355 were introduced in the 2004 session to deal with LEOFF 1 disability board membership. The bills would have clarified the qualifications of the active or retired fire fighters and active or retired law enforcement officers who are eligible to serve on the county disability board and who are eligible to vote for those board members; these persons must be active or retired from a legislative authority within the county subject to the jurisdiction of that same county's disability board. The bills also required that if there were either no fire fighters or no law enforcement officers eligible to vote, the eligible fire fighters or law enforcement officers would elect a second board member. Neither bill was forwarded from its respective fiscal committee.

Policy Consideration: Each disability board is required to have two LEOFF members. This legislation does not establish any new policies in regards to that membership but merely fine-tunes that policy in light of the declining number of eligible LEOFF 1 voting members. This issue will probably need to be visited again as the number of LEOFF 1 members declines even further.

Fiscal Impact: None

60% Benefit Cap

When first founded, LEOFF 1 had no benefit cap. With the passage of Chapter 120, laws of 1974, members' benefits were capped at 60% of final average salary. Those hired into LEOFF 1 positions on or after February 19, 1974 -- the effective date of the act -- are subject to the 60% cap; those hired prior to that date are not. As of the 2003 valuation, 507 of the 991 remaining active members were subject to the 60% benefit cap.

Of the total 8,054 retirees, 2,344 became members prior to February 19, 1974. Of those, 659 had a benefit that was greater than 60% of their final average salary.

The Public Employees' Retirement System (PERS) plan 1 and the Teachers' Retirement System (TRS) plan 1 both have provisions capping retirement benefits at 60% of average final compensation (AFC).

The plans 2/3, including LEOFF 2, have no benefit cap, but they are age-based plans as opposed to service-based plans. The School Employees' Retirement System (SERS), PERS and TRS 2/3 require members to be age 65 in order to receive an unreduced defined benefit. LEOFF 2 requires members to be age 53 to receive an unreduced benefit compared to age 50 in LEOFF 1.

In addition, all the plans 2/3 use a 60 month period to determine a member's final average salary (LEOFF) or average final compensation (PERS, SERS, TRS) when calculating their retirement allowance. PERS 1 and TRS 1 use a 24 month average, and LEOFF 1 members may use a 12 month average.

Recent Legislation: Two bills were introduced during the last legislative session related to the 60% cap in LEOFF 1. HB 2416 proposed raising the limit to 70% of FAS, and HB 2914 proposed eliminating the cap entirely; both bills received a hearing but neither moved from committee.

Policy Considerations: One of the general policies found in the funding chapter (RCW 41.45) is "Fund, to the extent feasible, benefit increases for all plan members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service." The average age of remaining active LEOFF 1 members is 54 years, and their average member service is 29.3 years. For a plan that wasn't fully funded, there would be scant time to contribute to a benefit increase for an active membership that is already, on average, retirement eligible. Because LEOFF 1 is in surplus status at this time, any benefit increase would draw on that surplus.

The other policy concern would be leapfrogging. One of the common criticisms of the plan 1 design is the 30 year cap or 60% cap; member's benefits are a maximized at 30 years of service ($2\% \times 30$ years of service = 60% of AFC). Were the cap raised or eliminated in the LEOFF 1 plan, PERS 1 and TRS 1 members may request a similar benefit increase which would have a much higher cost.

Fiscal Impact: The fiscal note for HB 2416 stated that the present value of projected benefits would increase by \$16 million, and the State contribution rate, when it is projected to resume, would increase by 0.14 percentage points.

The fiscal note for HB 2914 stated that the present value of projected benefits would increase by \$19 million and the State contribution rate, when it is projected to resume, would increase by 0.17 percentage points.

Based on forecasts from the 2002 valuation, the LEOFF 1 plan would emerge from its fully funded status in the 2011-2013 biennium. Fiscal notes showed that these proposals would result in the plan emerging from full funding one biennium earlier than projected.

Because of its relatively small surplus, the funding needs of LEOFF 1 are sensitive to short-term market performance. Plan assets and liabilities are tracking very closely. Future forecasts, which will recognize more recent market performance, may show different results.

Contribution Holiday

Because of its fully funded status, employer, member, and state contributions to the LEOFF 1 plan have been suspended. As a result, active members are earning benefits while not making contributions, in essence receiving a 6% pay raise. The state and LEOFF employers are also able to use monies that would have been used for retirement contributions for other purposes. Because projections show the LEOFF 1 plan emerging from full funding in the 2011-2013 biennium, there has been a discussion to resume contributions to prevent that from occurring.

Policy Considerations: Funding policies in Washington State, as outlined in RCW 41.45.010(3), include the goal to “To establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets” While the suspension of contributions in LEOFF 1 would appear to be in conflict with that policy, that policy is difficult to apply in a fully funded closed plan with a small and declining number of active members. As the obligation to amortize the LEOFF 1 unfunded liability was fulfilled, and as the plan reached fully funded status, the state established a new funding policy to acknowledge that funded status.

Defined benefit retirement plans are funded to support the benefit provisions within the plans. Ideally the funded ratio of such plans would always be at 100%, where assets match liabilities. Funding policies are formulated to reach that goal. It is not the goal of existing funding policy for any Washington State retirement system or plan to have surplus funding on a long-term basis. That

would mean that the actuarial assumptions were too conservative relative to the experience of the plan. In turn, that would mean members and employers were paying too much for the existing benefits.

Stakeholder Input

Senator Bob Morton
7th Legislative District
See attached correspondence

Richard Warbrouck
President, Retired Fire Fighters of Washington
See attached correspondence

Appendix A

Law Enforcement Officers' and Fire Fighters' plan 1 Provisions

Design

Defined benefit retirement, disability and medical plan.

Membership

Mandatory for full-time, fully compensated:

- (1) Law enforcement officers (i.e., county sheriffs, deputy sheriffs who have passed a civil service examination, city police officers, town or deputy marshals, or certain directors of public safety);
- (2) Fire fighters (i.e., persons who have successfully passed a civil service examination, if required, for fire fighter or supervisory fire fighter); and
- (3) Specified commissioned officers enforcing the criminal laws of the state who were employed on or before September 30, 1977.

Eligibility for membership generally requires meeting certain minimum medical, health, and age standards. Exclusions from the age standard are granted for police chiefs, fire chiefs, sheriffs, and certain directors of public safety.

Portability

Former LEOFF 1 members who become members of PERS, TRS or WSP may transfer their prior LEOFF 1 service to their current retirement system. Upon transfer, all ties with LEOFF 1 are severed, including eligibility for post-retirement medical benefits.

Vesting

Established upon completion of five years of credited service.

Terminated, Vested Benefit

(Terminates, but maintains membership by not withdrawing contributions)

At age-50, a terminated, vested member may receive a service retirement allowance.

If a terminated, vested member dies prior to attaining age-50 and with less than 20 years of service, a refund of contributions and accrued interest is made to the surviving spouse, designated beneficiary or personal representative of the estate.

If a terminated, vested member dies with at least 20 years of service, the benefit is as though the member had died in service.

Credited Service

- (1) A service credit month is earned for each calendar month of employment for which compensation is paid for 70 or more hours.
- (2) Service credit is also earned for:
 - (a) Periods of suspension up to 30 days; and
 - (b) Periods of disability leave if the member returns to duty.

Service Credit for Leave of Absence

A member who is on paid leave of absence will receive service credit for such leave. This applies to a member, as authorized by a collective bargaining agreement, who serves as an elected official of a labor organization.

Military Service Credit

Members whose service is interrupted receive up to five years of military service.

Withdrawal of Employee Contributions

Upon termination of employment for reasons other than retirement or disability a member may sever relationship with the system by withdrawing his or her contributions, plus accrued interest thereon.

Restoration/Purchase of Service Credit

Contributions restored within 5 years of re-entry, member repays the withdrawn amount.

Contributions restored after 5 years, member pays full actuarial value of restored service.

Compensation

The basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages. (Defined as basic salary.)

Computation of Final Average Salary

The basic salary attached to the position or rank at retirement if held for at least 12 months. If not, it is the average of the greatest basic salaries paid over 24 consecutive credited months in the last 10 credit years.

Eligibility for Normal Retirement

Five years of service and attainment of age-50.

Service Retirement Allowance

- (1) 1% of final average salary (FAS) for each year if the member has at least five years of service, but less than ten years of service.
- (2) 1.5% of FAS for each service credit year if the member has at least ten, but less than 20 years of service.
- (3) 2% of FAS for each year of service if the member has 20 or more years of service.
- (4) The benefit shall not exceed 60% of FAS if the member was first employed on or after February 19, 1974.

Cost-of-Living Adjustments

Each April 1st, after one year of retirement, an annual adjustment is made to the benefit based upon the percentage difference between the CPI-Seattle, for the previous year and the CPI-Seattle, for the year prior to retirement.

Retirement for Disability

Duty/Non-Duty: With the approval of the local disability board and the Director, DRS, a member who has incurred a disability rendering him or her unable to continue service in the position or rank held at that time, shall receive an allowance of 50% of FAS, plus an additional five percent of FAS for each dependent child, not to exceed a maximum benefit of 60% of FAS.

Disability Leave

As ordered by the local disability board, the employer provides up to six months of leave at full pay.

Survivor Benefits - Active Members

- (1) The surviving spouse receives an allowance equal to what the member would have received at age-50 (50% of AFC), plus five percent additional for each child, with the maximum benefit not to exceed 60%.

If there is no surviving spouse but there are children, the first surviving child receives an allowance equal to 30% of FAS, and an additional 10% for each additional child to a maximum of 60%. The payments will be prorated among them.

- (2) If member dies in service or from injuries sustained in the commission of duties - survivors receive a \$150,000 lump sum payment.

Survivor Benefits - Retired Members

The surviving spouse, if married one year to the member prior to retirement, receives the same benefit as did the member, including the allowance for children. If there is no surviving spouse but there are children, the first surviving child receives an allowance equal to 30% of FAS, and an additional 10% for each additional child to a maximum of 60%. The payments will be prorated among them.

Medical Services

Necessary medical services are provided by the employer to active and retired members.

Post-Retirement Employment

Members may work for any non-LEOFF employer without a reduction of benefits.

Member Contributions

- (1) 6% of compensation (i.e., basic salary).
- (2) Contributions are required only when the plan's most recent actuarial valuation indicates an unfunded liability exists.
- (3) Employee contributions may be "picked-up" for all employees of an employer under Section 414(h) of the IRS Code.

Employer Contributions

- (1) 6% of compensation (i.e, basic salary).
- (2) Contributions are required only when the plan's most recent valuation indicates an unfunded liability exists.
- (3) The present value of the total estimated cost of all benefits attributed to excess compensation.

Excess compensation includes any payment on which the calculation of the retirement allowance is made, except basic salary.

State Contributions

The required costs of the system in excess of those met by the contributions of the employee and employer. This includes the amortization of the unfunded liability by June 30, 2024.

Appendix B

LEOFF 1 Statement of Changes in Plan Net Assets

For Years Ending June 30th

Fiscal year	Market Assets * (end of year)	Contributions			Total	State contribution as a % of salary	Fiscal year disbursements
		Employee	Employer	State			
1970	\$10,783,000						
1971	\$19,929,181	\$4,285,260	\$4,285,260	\$0	\$8,570,520		\$1,634,650
1972	\$33,829,038	\$4,907,850	\$4,907,850	\$0	\$9,815,700		\$4,209,500
1973	\$43,336,391	\$5,382,510	\$5,382,510	\$0	\$10,765,020		\$6,592,500
1974	\$57,914,979	\$5,916,300	\$5,916,300	\$0	\$11,832,600		\$9,180,750
1975	\$77,564,804	\$6,509,220	\$6,509,220	\$0	\$13,018,440		\$11,974,250
1976	\$109,980,394	\$7,132,023	\$7,132,023	\$39,810,356	\$54,074,402	33.5%	\$14,921,451
1977	\$161,894,099	\$7,773,699	\$7,773,699	\$39,689,644	\$55,237,042	30.6%	\$18,022,354
1978	\$226,227,684	\$8,396,502	\$8,565,528	\$62,668,321	\$79,630,351	44.8%	\$21,396,921
1979	\$295,568,391	\$8,738,973	\$8,778,495	\$62,478,300	\$79,995,768	42.9%	\$26,153,565
1980	\$393,207,886	\$9,241,014	\$9,321,517	\$81,694,026	\$100,256,557	53.0%	\$32,660,419
1981	\$496,916,357	\$9,593,000	\$9,585,000	\$81,166,000	\$100,344,000	50.8%	\$40,441,000
1982	\$522,976,635	\$10,400,633	\$10,391,118	\$56,729,347	\$77,521,098	32.7%	\$50,393,815
1983	\$732,684,842	\$10,561,209	\$10,530,515	\$178,057,262	\$199,148,986	101.2%	\$58,947,576
1984	\$886,463,945	\$10,791,349	\$10,734,238	\$128,749,878	\$150,275,465	71.6%	\$65,127,565
1985	\$1,034,190,679	\$10,926,267	\$10,857,000	\$93,146,449	\$114,929,716	51.2%	\$69,279,352
1986	\$1,207,993,114	\$11,004,730	\$10,893,557	\$139,122,916	\$161,021,203	75.9%	\$74,681,582
1987	\$1,789,837,346	\$11,432,053	\$11,365,919	\$138,443,471	\$161,241,443	72.7%	\$79,979,069
1988	\$1,843,529,858	\$11,709,770	\$11,676,523	\$52,522,735	\$75,909,027	26.9%	\$84,536,118
1989	\$2,055,809,053	\$11,987,486	\$11,987,126	\$46,249,232	\$70,223,844	23.1%	\$90,927,845
1990	\$2,188,850,541	\$10,675,028	\$10,611,947	\$56,787,848	\$78,074,823	31.9%	\$98,444,768
1991	\$2,336,825,596	\$10,931,945	\$10,763,500	\$54,403,718	\$76,099,163	29.9%	\$109,091,107
1992	\$2,494,326,109	\$10,436,729	\$10,427,591	\$70,333,321	\$91,197,641	40.4%	\$122,097,650
1993	\$2,755,829,928	\$10,465,916	\$10,393,893	\$54,664,315	\$75,524,124	31.3%	\$134,561,317
1994	\$2,748,629,232	\$9,801,400	\$9,794,758	\$61,289,136	\$80,885,294	37.5%	\$146,215,486
1995	\$3,112,599,913	\$9,467,354	\$9,484,269	\$65,468,874	\$84,420,497	41.5%	\$157,754,206
1996	\$3,575,812,041	\$8,923,558	\$8,935,270	\$70,913,900	\$88,772,728	47.7%	\$170,546,109
1997	\$4,170,300,827	\$8,184,875	\$8,190,404	\$66,746,617	\$83,121,896	48.9%	\$184,119,302
1998	\$4,715,767,752	\$8,341,376	\$7,566,542	\$50,358,280	\$66,266,198	36.2%	\$200,532,887
1999	\$5,113,605,449	\$7,165,640	\$7,195,563	\$48,793,478	\$63,154,681	40.9%	\$216,688,665
2000	\$5,550,458,331	\$6,323,611	\$6,302,777	\$0	\$12,626,388	0.0%	\$228,241,279
2001	\$4,987,226,278	\$21,287	\$130,161	\$0	\$151,448		\$242,370,585
		\$267,428,567	\$266,390,073	\$1,800,287,424	\$2,334,106,063	40.4%	\$2,771,723,643
		11.5%	11.4%	77.1%			

Source: Department of Retirement Systems, Comprehensive Annual Financial Reports (1976 - 2001), Washington Law Enforcement Officers' and Firefighters' Retirement System Actuarial Valuations (1970-1975)

Note: Midpoint averaging used to estimate missing data for asset accounts, disbursements, and salaries used in turn to estimate employee and employer contributions.

* Book value assets prior to 1981.
p:\closed\1999 int 2000 session\cash flows\leoff1and2 cash flow.xls

Appendix C

LEOFF 1 Survivor Option Factors

Member younger than beneficiary				Member older than beneficiary			
Age	Option 2	Option 3	Option 4	Age	Option 2	Option 3	Option 4
Difference	100%	50%	66 2/3 %	Difference	100%	50%	66 2/3%
-20	0.958	0.978	0.971	0	0.878	0.935	0.915
-19	0.955	0.977	0.969	1	0.873	0.932	0.912
-18	0.952	0.975	0.967	2	0.868	0.930	0.908
-17	0.949	0.974	0.965	3	0.864	0.927	0.905
-16	0.946	0.972	0.963	4	0.859	0.924	0.901
-15	0.942	0.970	0.961	5	0.854	0.921	0.898
-14	0.939	0.969	0.959	6	0.849	0.918	0.894
-13	0.935	0.967	0.956	7	0.844	0.915	0.890
-12	0.932	0.965	0.953	8	0.839	0.913	0.887
-11	0.928	0.963	0.951	9	0.835	0.910	0.883
-10	0.924	0.960	0.948	10	0.830	0.907	0.880
-9	0.920	0.958	0.945	11	0.826	0.905	0.877
-8	0.916	0.956	0.942	12	0.821	0.902	0.873
-7	0.911	0.954	0.939	13	0.817	0.899	0.870
-6	0.907	0.951	0.936	14	0.813	0.897	0.867
-5	0.902	0.949	0.933	15	0.809	0.894	0.864
-4	0.898	0.946	0.929	16	0.805	0.892	0.861
-3	0.893	0.943	0.926	17	0.801	0.889	0.858
-2	0.888	0.941	0.922	18	0.797	0.887	0.855
-1	0.883	0.938	0.919	19	0.793	0.885	0.852
				20	0.790	0.882	0.849
				21	0.786	0.880	0.847
				22	0.783	0.878	0.844
				23	0.780	0.876	0.841
				24	0.777	0.874	0.839
				25	0.774	0.872	0.837
				26	0.771	0.871	0.834
				27	0.768	0.869	0.832
				28	0.765	0.867	0.830
				29	0.763	0.865	0.828
				30	0.760	0.864	0.826
				31	0.758	0.862	0.824
				32	0.756	0.861	0.823
				33	0.753	0.859	0.821
				34	0.751	0.858	0.819
				35	0.749	0.857	0.818
				36	0.747	0.855	0.816
				37	0.745	0.854	0.815
				38	0.744	0.853	0.813
				39	0.742	0.852	0.812
				40	0.740	0.851	0.810

Age difference: Member age minus beneficiary age

[Statutory Authority: RCW 41.50.050(5), 41.26.162, 41.26.164, chapter 41.45 RCW. 03-12-014, § 415-02-380, filed 5/27/03, effective 7/1/03. Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 03-02-087, § 415-02-380, filed 12/31/02, effective 2/1/03; 02-18-048, § 415-02-380, filed 8/28/02, effective 9/1/02.]

Appendix D

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	1/20/04	HB 2416

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) by increasing the maximum service retirement allowance of those who became members on or after February 19, 1974 to 70% of their final average salary.

Effective Date: 90 days after session

CURRENT SITUATION:

Currently, the maximum service retirement allowance for a member of LEOFF 1 who became a member on or after February 19, 1974 is 60% of their final average salary.

MEMBERS IMPACTED:

We estimate that 568 active members hired on or after 2/19/1974 out of the total 1,147 active members of this plan could be affected by this bill. Additional members could be affected if they returned to work and earn over 30 years of service.

Each year of additional service credit beyond 30 years, but less than 35, would result in an increase of about \$1,400 in annual pension payments per person (based on a current annual salary of \$69,667).

ASSUMPTIONS:

We have assumed that future disabled retirees with at least 30 years of service will elect the proposed service retirement benefit (with the 70% of pay cap) in lieu of the 50% of the pay tax-free disability benefit. The impact of this assumption change, as it relates to the proposed service retirement benefit, is reflected in the estimated cost of this proposal. This proposed benefit change may alter future retirement behavior in the plan and, as a result, have an additional impact on the plan's liability. This cost, if it indeed materializes, would be reflected in future actuarial valuations after retirement rates are adjusted for any change in actual retirement experience.

FISCAL IMPACT:

Description:

There is no immediate fiscal impact while the plan remains in a surplus or fully funded position. However, the plan is projected to resume funding earlier and at a higher rate as a result of the proposed benefit increase.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

Law Enforcement Officers' and Fire Fighters' Retirement System:			
<i>(Dollars in Millions)</i>	Current	Increase	Total
Actuarial Present Value of Projected Benefits	\$4,338	\$16	\$4,354
(The Value of the Total Commitment to all Current Members)			
Unfunded Actuarial Accrued Liability	\$(757)	\$16	\$(741)
(The Portion of the Plan 1 Liability that is Amortized at 2024)			
Unfunded Liability (PBO)	\$(830)	\$13	\$(817)
(The Value of the Total Commitment to all Current Members Attributable to Past Service)			

Increase in Contribution Rates:

(Effective 9/01/2004)

Employee	0.0%
Employer State	0.0%

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):

2004-2005

State:

General Fund	\$0.0
--------------	-------

Non-General Fund	<u>0.0</u>
------------------	------------

Total State	\$0.0
--------------------	--------------

Local Government	\$0.0
------------------	-------

Total Employer	\$0.0
----------------	-------

Total Employee	\$0.0
----------------	-------

2005-2007

State:

General Fund	\$0.0
--------------	-------

Non-General Fund	<u>0.0</u>
------------------	------------

Total State	\$0.0
--------------------	--------------

Local Government	\$0.0
------------------	-------

Total Employer	\$0.0
----------------	-------

Total Employee	\$0.0
----------------	-------

2004-2029

State:

General Fund	\$53.7
--------------	--------

Non-General Fund	<u>0.0</u>
------------------	------------

Total State	\$53.7
--------------------	---------------

Local Government	\$1.6
------------------	-------

Total Employer	\$55.3
----------------	--------

Total Employee	\$1.6
----------------	-------

State Actuary's Comments:

Because the plan is currently in a surplus position, we have projected the impact this bill might have on the plan's future funding status. This projection reflects the future recognition of prior asset gains and losses and the impact of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

Based on this projection, the plan is expected to emerge from its surplus position in the 2011-2013 biennium before this plan change. After the plan change, the plan is expected to emerge from its surplus position in 2009-2011. This would result in 6% employee and employer contributions for Plan 1 members resuming two years earlier. The state's normal cost contribution for Plan 1 members would also resume 2 years earlier, but more significantly the state's UAAL contribution over all LEOFF members pay would resume earlier and at a rate that is approximately .14% higher.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2002 actuarial valuation report of the Law Enforcement Officers' and Fire Fighters' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report or in this fiscal note include the following: None.
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2004 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	1/23/04	HB 2914

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) by removing the provision that limits the retirement allowance for those who became members on or after February 19, 1974 to 60% of their final average salary.

Effective Date: 90 days after session

CURRENT SITUATION:

Currently, the maximum retirement allowance for a member of LEOFF 1 who became a member on or after February 19, 1974 is 60% of their final average salary. Those who became members before February 19, 1974 have no such limit on their retirement allowance.

MEMBERS IMPACTED:

We estimate that 568 active members hired on or after 2/19/1974 out of the total 1,147 active members of this plan could be affected by this bill. Additional members could be affected if they returned to work and earn over 30 years of service.

Each year of additional service credit beyond 30 years would result in an increase of about \$1,400 in annual pension payments per person (based on a current annual salary of \$69,667).

ASSUMPTIONS:

We have assumed that future disabled retirees with at least 30 years of service will elect the proposed service retirement benefit in lieu of the 50% of the pay tax-free disability benefit. The impact of this assumption change, as it relates to the proposed service retirement benefit, is reflected in the estimated cost of this proposal. This proposed benefit change may alter future retirement behavior in the plan and, as a result, have an additional impact on the plan's liability. This cost, if it indeed materializes, would be reflected in future actuarial valuations after retirement rates are adjusted for any change in actual retirement experience.

FISCAL IMPACT:

Description:

There is no immediate fiscal impact while the plan remains in a surplus or fully funded position. However, the plan is projected to resume funding earlier and at a higher rate as a result of the proposed benefit increase.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

Law Enforcement Officers' and Fire Fighters' Retirement System:			
<i>(Dollars in Millions)</i>	Current	Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	\$4,338	\$19	\$4,357
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	\$(757)	\$19	\$(738)
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	\$(830)	\$14	\$(816)

Increase in Contribution Rates:	Prior to 7/1/2009	2009-11 Biennium	After 6/30/2011*
Employee	0.0%	6.0%	0.0%
Employer	0.0%	6.0%	0.0%
State	0.0%	3.59%	0.17%

**We estimate that 6% employee and employer contributions plus the state's portion of the plan's normal cost will resume two years earlier as a result of this proposed benefit increase. The state's contribution to the plan's projected UAAL would also resume two years earlier and at a rate that is 0.17% higher.*

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):

2004-2005

State:

General Fund	\$0.0
--------------	-------

Non-General Fund	<u>0.0</u>
------------------	------------

Total State	\$0.0
--------------------	--------------

Local Government	\$0.0
------------------	-------

Total Employer	\$0.0
----------------	-------

Total Employee	\$0.0
----------------	-------

2005-2007

State:

General Fund	\$0.0
--------------	-------

Non-General Fund	<u>0.0</u>
------------------	------------

Total State	\$0.0
--------------------	--------------

Local Government	\$0.0
------------------	-------

Total Employer	\$0.0
----------------	-------

Total Employee	\$0.0
----------------	-------

2004-2029

State:

General Fund	\$63.8
--------------	--------

Non-General Fund	<u>0.0</u>
------------------	------------

Total State	\$63.8
--------------------	---------------

Local Government	\$1.6
------------------	-------

Total Employer	\$65.4
----------------	--------

Total Employee	\$1.6
----------------	-------

State Actuary's Comments:

Because the plan is currently in a surplus position, we have projected the impact this bill might have on the plan's future funding status. This projection reflects the future recognition of prior asset gains and losses and the impact of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

Based on this projection, the plan is expected to emerge from its surplus position in the 2011-2013 biennium before this plan change. After the plan change, the plan is expected to emerge from its surplus position in 2009-2011. This would result in 6% employee and employer contributions for Plan 1 members resuming two years earlier. The state's normal cost contribution for Plan 1 members would also resume two years earlier, but more significantly the state's UAAL contribution over all LEOFF members pay would resume earlier and at a rate that is approximately .17% higher.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2002 actuarial valuation report of the Law Enforcement Officers' and Fire Fighters' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report or in this fiscal note include the following: None.
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2004 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	1/28/04	HB 3114/SB 6355

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Firefighters' Retirement System (LEOFF) Plan 1. The bill addresses jurisdiction, disability board membership and eligibility to vote for employee representatives on the board. The proposed legislation provides that the jurisdiction of the county disability boards applies to all members employed by or retired from an employer within the county and not employed by a city in which a disability board is established. It also clarifies that to serve on the county disability board, a fire fighter or law enforcement officer must be employed by or retired from an employer within the county and not be employed by or retired from a city in which a disability board is established. Those voting for employee representatives on the county disability board must be employed by or retired from an employer within the county and not employed by or retired from a city in which a disability board is established. Finally, the bill addresses the election of the firefighter and law enforcement officer positions on the board and adds the following new provisions: a) if there are no firefighters eligible to vote, a second eligible employee representative shall be elected by the law enforcement officers eligible to vote, and b) if there are no law enforcement officers eligible to vote, a second employee representative shall be elected by the fire fighters eligible to vote.

Effective Date: Immediately upon passage.

CURRENT SITUATION:

Currently the county disability board's jurisdiction extends to "all members residing in the county" and not employed by a city in which a disability board is established. The limitation that the members be employed by or retired from an employer within the county is not included in the current law. Similarly, regarding eligibility to serve on the disability board, the current law requires mere residence in the county for the firefighter and police officer representatives, whereas the new law requires that the employee representatives be "employed by or retired from an employer within the county" in lieu of the residency requirement, and that they not be "employed by or retired from a city in which a disability board is established." With respect to eligibility to vote, the current law allows the following to vote: all fire fighters and law enforcement officers employed or retired from the county who are not employed by or retired from a city in which a disability board is established and who are subject to the jurisdiction of the board. The new law adds the requirement that the voting member be employed by or retired from an employer within the county who are not employed by or retired from a city in which a disability board is established and who are subject to the jurisdiction of "that" board.

FISCAL IMPACT:

None.

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	2/05/04	HB 3173

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1. It amends the plan provision relating to survivor benefits under RCW 41.26.164, which provides an optional reduced retirement allowance with survivor benefits to spouses that are ineligible for survivor benefits under other plan provisions. The bill changes one of the criteria for allowing a member to choose this retirement option. Under this legislation, the member could select the option as long as there is some portion of his or her retirement benefit that is not subject to a property division pursuant to a domestic relations order. (Currently, any division would defeat the member's ability to select this option.) Other provisions of the bill include a one-year extension of the deadline for promulgating rules to allow members to chose this option, and a "clean-up" provision that changes "beneficiaries" to "beneficiary's" (based on the assumption that the member has only one spouse at any given point in time).

Effective Date: 90 days after session.

CURRENT SITUATION:

Currently a member desiring to choose this option shall "have the retirement allowance payable to the retiree not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670." This language is broad enough to suggest that the presence of any such division would defeat the member's ability to choose this option. With the new language, the member could choose this option so long as there is a portion of the retirement allowance that is not subject to division.

MEMBERS IMPACTED:

We have no information on the number of members whose pensions are partially divided, who have re-married and who would choose to take an actuarially reduced benefit on the remaining portion. For those who do make this election, their benefit would be actuarially reduced to reflect the cost of the survivor benefit provided by the election. For example, the option factor is .935 for a 50% Joint and Survivor option where the spouse is the same age as the member, thereby reducing a single-life benefit of \$1,000 per month to \$935 per month.

FISCAL IMPACT:

None. The member pays the full cost of the survivor benefit via an actuarial reduction of his or her retirement allowance.

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	2/05/04	HB 3174

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) by establishing the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 medical account within the office of the State Treasurer. Expenditures from this account could be used only for the catastrophic medical expenses of employers for the benefit of LEOFF 1 members **or beneficiaries**. The account would be funded by contributions from members and employers. The member contributions would be 6% of payroll less any member contributions to the retirement fund. The employer contributions would be 6% of payroll less any employer contributions to the retirement fund.

The Director of the Department of Retirement Systems is to establish the rules for receipt of distributions from this account.

Effective Date: 90 days after session.

CURRENT SITUATION:

Currently, necessary medical services to LEOFF 1 retirees are provided by each member's employer. This bill provides catastrophic medical expense coverage to beneficiaries that has not previously been available.

Because of the funding status of LEOFF 1, no member, employer, or state contributions are currently being paid into the LEOFF 1 fund. As a result, initial member and employer contributions to the proposed LEOFF 1 medical account would each be 6% of pay.

Were the funding status of LEOFF 1 to change and contributions again required, members and employers would each contribute the statutorily required 6% of pay, and no contributions would go to the medical account.

MEMBERS IMPACTED:

There is no impact on member pension benefits or contributions. The 1,147 active members would be impacted by having to make contributions to a medical account when the required member contribution rate to the pension plan is less than 6%.

When the market value of LEOFF 1 assets are projected using actual investment returns through 8/30/03 and an assumed 8% rate of return thereafter, the plan remains in a surplus position until the 9/30/2009 valuation date. An unfunded liability would then emerge once unrecognized prior asset losses are fully reflected in the projected actuarial value of assets. Under this scenario, members would contribute 6% of pay to the medical account from 7/1/2004 through 6/30/2011: \$3.1, \$2.5, \$2.0, \$1.6, \$1.2, \$0.9 and \$0.7 million for a total of \$12 million over the period. Employers would contribute the same amount to the medical account. After 7/1/2011, 6% employee and employer contributions are projected to resume for the pension plan.

FISCAL IMPACT:

There is no impact on the pension plan.

State Actuary's Comments:

There are very limited opportunities to prefund medical benefits under a tax-qualified trust. It is unclear whether this proposed program would qualify under current federal tax law.



RECEIVED

MAY 21 2004

Olympia Office:
115D Irv Newhouse Building
PO Box 40407
Olympia, WA 98504-0407
Phone: (360) 786-7612
FAX: (360) 786-1999
E-mail: morton_bo@leg.wa.gov

Washington State Senate

Senator Bob Morton
7th Legislative District

**Office of
The State Actuary
District Office:**
3278 Pierre Lake Road
Kettle Falls, WA 99141
Phone: (509) 684-5132

May 19, 2004

Dear Members of the Select Committee on Pension Policy:

During this past session, I was contacted by a former constituent, Sandra White, who is in dire financial circumstances because of the application of a survivor benefit statute. I would like to request that the Select Committee on Pension Policy ("SCPP") consider legislation that would remedy Ms. White's unfortunate plight.

Enclosed is Ms. White's correspondence, and following is a summary of her issue in the hope that the SCPP will find this useful in its consideration of this matter:

Issue

Ms. White was married to a LEOFF 1 member for 41 years. They divorced in 2000, some four years after he retired. The court order entitled her to half of his retirement benefit. Mr. White died one month after the divorce, thereby terminating Ms. White's retirement allowance. As a homemaker for all the years of their marriage, Ms. White has little money now.

2002 Legislative Change: Survivor Benefit for Ex-Spouses of LEOFF 1 Members

In the 2002 session, the legislature passed ESB 6380 which, among other things, granted a survivor benefit to ex-spouses of LEOFF 1 members, provided certain criteria were met.

The criteria included: (a) the member must have had 30 years of service, (b) the parties must have been married at least 25 years, and (c) the parties must have entered into a court-approved property settlement agreement awarding a portion of the member's benefits to the ex-spouse after June 13, 2002.

Under the bill as passed, Ms. White did not qualify for a survivor benefit. Her husband had 29 years & 10 months of service, not 30 years. And the court order entitling her to half of his retirement was entered in 2000, not after June 13, 2002.

Options to Solve Ms. White's Situation

There are several ways in which Ms. White's situation could be remedied and a survivor benefit could be obtained. Most notably, SB 6380 as it passed the Senate in 2002 would have solved Ms. White's problem, as it did not have the thirty year member requirement nor the time restriction on when the court order was entered into. Had that version not been subsequently amended, Ms. White would be receiving benefits now. I would ask the committee to consider this, or another alternative, as a solution to Ms. White's problem.

Thank you for your consideration.

Cordially yours,

A handwritten signature in black ink that reads "Bob".

BOB MORTON
State Senator

Enclosure

cc: Matthew Smith ✓

**Retired Firefighters of Washington**

15310 163rd Ct. SE
Renton, WA 98058-8122
425-226-3793
rffow@attbl.com

Richard Warbrouck
President

Bob Burtch
Secretary

October 5, 2004

The Honorable Karen Fraser
Chair, Select Committee on Pension Policy
PO Box 40422
Olympia, WA 98504-0422

Dear Senator Fraser,

I would like to draw your attention to a letter I forwarded to Senator Winsley dated January 12, 2004 regarding RCW 41.26.110.(B).

Senator Winsley was kind enough to introduce SB 6355 in the 2004 session and Representative Helen Sommers introduced HB 3114 in the House. The two bills were intended to correct the existing language and create a new provision to allow two law enforcement officers to serve on a county disability board when there are no firefighters eligible to serve. RCW 41.26.110 (B) states "Each county shall establish a disability board having jurisdiction over all members residing in the county." This is incorrect. The members don't have to reside in the county. They have to be employed by an employer within the county.

RCW 41.26.110 (B) presently states "An active or retired firefighter or law enforcement officer to be eligible to serve on the board must be employed by or retired from the county." This is incorrect. Any active or retired firefighter or law enforcement officer who is employed or was previously employed by an employer or agency under the jurisdiction of the board is eligible to serve. Only those active and retired LEOFF 1 firefighters and law enforcement officers who are under the jurisdiction of the board are eligible to vote in disability board elections.

We also want to correct a new problem. Island County for example, has no LEOFF 1 active or retired firefighters under the jurisdiction of the board so they have no active or retired firefighters members eligible to elect a representative to the board. This eliminates the fire representative on the board, thereby reducing the number of board members by one creating an imbalance on the board. Our bill will allow the law enforcement officers to elect a second law enforcement officer representative to the board in these situations.

Both bills were passed out of their assigned committee and sent to the Rules Committee in each chamber. They were up for Second Reading but failed to get voted out of Rules by the cut-off. I respectfully request that the Select Committee consider these two bills and include them in the committee's legislative package.

I have also included a letter dated May 17, 2004 addressed to Senator Winsley, Chair, Select Committee on Pension Policy in where I requested to have SB 6355 and HB 3114 placed on the Select Committee's interim agenda.

I also referred to the statement by Matt Smith, the State Actuary, at the April 20, 2004 meeting that the LEOFF 1 Fund could have an unfunded liability as early as 2008. If this is correct I would request the Committee to reinstate the LEOFF 1 contributions. I would question the wisdom of continuing the present contribution holiday. To continue the contribution holiday would only create an escalating problem for a future legislature.

Due to the fluctuating value of the LEOFF 1 Fund, I would suggest that the Office of the State Actuary give a complete report to the Committee regarding the LEOFF 1 Fund. The LEOFF 1 Fund members would like, for once, to understand the value, the liability, the assumption and the computations used in determining these values.

If there is a surplus of \$757,000.00, as previously reported, I would like the Committee to evaluate the need for the actuarially reduced pension for the new Survivor Benefit as created in ESB 6380.

I request that the Committee consider extending the new Survivor Benefit option as created in ESB 6380 to those members who are only receiving a partial pension. Currently, any member who is receiving less than a full pension due to a personal property settlement in a divorce decree is not eligible to select this option. Those members who would become eligible would of course have their reduced pensions further reduced by the same percentage as those members who are receiving a full pension and exercised this option. The benefit would be based on the member's current pension and paid for by the actuarial reduction.

Thank you for your consideration.

Sincerely,

Richard C. Warbrouck

**Retired Firefighters of Washington**

15310 163rd Ct. SE
Renton, WA 98058-8122
425-226-3793
rffow@attbl.com

Richard Warbrouck
President

Bob Burch
Secretary

January 12, 2004

Senator Shirley Winsley
1109 Garden Circle
Fircrest, WA 98466-6218

Dear Senator Winsley,

I want to remind you of the current discrepancies in RCW 41.26.110 (B), LEOFF 1 City and County Disability Boards and want to request your assistance in making some housekeeping amendments to RCW 41.26.110. RCW 41.26.110 (B) states that "Each county shall establish a disability board having jurisdiction over all members residing in the county." This is incorrect. The members don't have to reside in the county. They have to be employed by an employer within the county.

RCW 41.26.110 (B) presently states that "An active or retired firefighter or law enforcement officer to be eligible to serve on the board must be employed by or retired from the county." This is incorrect. Any active or retired firefighter or law enforcement officer who is employed by an employer or agency under the jurisdiction of the board is eligible to serve. Only those active and retired LEOFF 1 firefighters and law enforcement officers who are under the jurisdiction of the board are eligible to vote in these disability board elections.

I have attached a copy of an e-mail from Jan L. Ford, the Secretary of the Island County Disability Board. Jan explains that the Island County Board has no LEOFF 1 active or retired firefighters under the jurisdiction of the board so they have no active or retired firefighter members eligible to elect a representative to the board. This eliminates the fire representative on the board, thereby reducing the number of board members by one which creates an imbalance on the board. I suggested in a letter to the Select Committee on Public Pensions that in these situations the law enforcement officers should elect a second law enforcement officer representative to the board.

Representative Steve Conway, Chair of the Select Pension Committee, informed me that the Select Committee did not have the time to advertise and schedule a Public Hearing regarding this issue and suggested that I have a bill introduced. I did discuss this with Eric Sund as you suggested. Eric was very helpful in assisting me with the Code Reviser.

The emergency designation would be appropriate on this amendment because as of December 31, 2003 the firefighter representative is no longer eligible to serve on the board.

I will contact your office to be advised of your decision and to ascertain if you are in need of any additional information.

Thank you for your consideration.

Respectfully,

Richard C. Warbrouck



Print Message | Close

From : "LEOFF1.Net" <gtaylor@leoff1.net>
To : "Jan Ford" <JanF@co.island.wa.us>
Cc : "Richard Warbrouck" <mwarbrouck@juno.com>
Subject : RE: SB 5090
Date : Sat, 18 Oct 2003 14:40:19 -0700

1 360 679-7353

Jan,

I don't know if I got back to you on this as I have been out of town on vacation.

This was a screw up in the legislature. Everybody is aware of the problem but nothing can be done to fix it until the legislature resumes.

You might contact Dick Warbrouck, the President of the Retired Fire Fighters of Washington. I know he is tracking this issue. His email address is:
mwarbrouck@juno.com

Jerry Taylor
gtaylor@leoff1.net

-----Original Message-----

From: Jan Ford [mailto:JanF@co.island.wa.us]
Sent: Monday, September 22, 2003 3:34 PM
To: gtaylor@leoff1.net
Subject: SB 5090

Hello: I am the secretary to the Island County LEOFF I Disability Board. Very recently we learned of the effect of SB 5090 passed by the 2003 legislature that changed RCW41.26.110 affecting who can vote for representatives on the local disability boards. The passage of this legislation has effectively eliminated our fire fighter representative position on our board as we have no LEOFF I fire fighters in Island County, and therefore, no one to vote.

Are you familiar with the background of this legislation? Have you heard from other counties/boards in the same position?

Thanks..

Jan L. Ford

/8?block=1&msgList=179&folder=Inbox&destFolder=Inbox&command=print&msgNum=10/20/03

Island County Commissioners Office

P. O. Box 5000, Coupeville, WA 98239

Phone: (360) 679-7353

**Retired Firefighters of Washington**

15310 163rd Ct. SE
Renton, WA 98058-8122
425-226-3793
rflow@attbi.com

Richard Warbrouck
President

Bob Burch
Secretary

May 17, 2004

The Honorable Shirley Winsley
Chair, Select Committee on Pension Policy
PO Box 40428
Olympia, WA 98504-0428

The Honorable Steve Conway
Vice Chair, Select Committee on Pension Policy
PO Box 40600
Olympia, WA 98504-0600

Mr. Matthew Smith, State Actuary
Office of the State Actuary
PO Box 40814
Olympia, WA 98504-0914

Dear Senator Winsley, Representative Conway and Mr. Smith:

I forwarded a letter and addressed the Committee at the April 20, 2004 meeting requesting that SB 6355 and HB 314, the Companion Bill be placed on the agenda for consideration. I also request that the Committee evaluate the comment made by the State Actuary at the April 20th meeting regarding the LEOFF 1 Fund. He suggested that the fund may develop an unfounded liability as early as 2008 or 2011. If he is correct, I would question the wisdom of continuing the present contribution holiday. To continue, the contribution holiday would only create an escalating problem for a future legislature.

During the 2004 interim I am requesting that the Office of the State Actuary give a complete report to the Committee regarding the LEOFF 1 Fund. The members would like, for once, to understand the value, the liability, the assumptions and the computations used in determining these values.

In addition, we are requesting that the following issues be placed on the agenda for the 2004 interim meetings. Some of these issues have been mentioned in the past, however they are very important to the members and worthy of a complete analysis.

- Establishing a medical fund. This would reduce the liability to the employers for the payment of medical expenses. We would establish a 6% contribution for the

member and for the employer. This contribution would not be associated with the former pension contributions, so as not to violate any IRS rules.

- **Survivor Benefit:**

- A) To evaluate the need for the actuarially reduced pension for the new survivor benefit for LEOFF 1 members.
- B) Extending the new survivor benefit option to those members who are only receiving a partial pension. This option is not available to these members at the present time.

This would not require a fiscal note as the benefit would be based on the current pension and paid for by an actuarial reduction.

Your assistance in placing these issues on the agenda would certainly be appreciated.

Sincerely,



Richard C. Warbrouck

LEOFF 1 ISSUES

Robert Wm. Baker
Senior Research Analyst

Select Committee on Pension Policy
October 19, 2004

Members Impacted

- 991 Active
- 8,054 Retired

Current Situation

- LEOFF 1 created March 1, 1970
- Small municipalities could not afford ever-increasing retirement benefits
- Consolidated plan guaranteeing existing plan benefits
- Closed September 30, 1977

Retirement Benefit

- Defined Benefit
- $2\% \text{ of FAS} \times \text{Years of Service}$
- FAS = Basic salary by position or rank if held for at least 12 months
- Eligible to retire at age 50 with 5 years of service

Survivor Benefit

- Active
 - 50% of FAS at time of death
 - Amount member would receive at age 50
 - Amount receiving on duty disability
 - 5% additional for each child to a maximum of 60% of FAS
 - \$150,000 lump sum
- Inactive
 - Same as member received

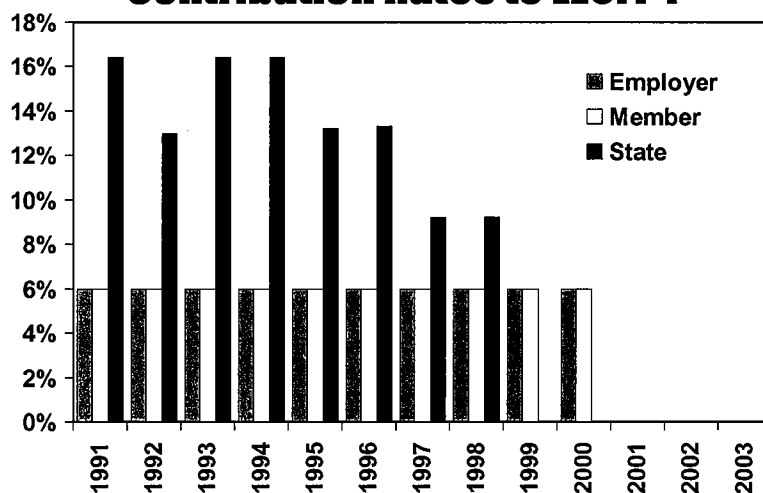
Post-retirement Benefit

- All necessary medical services provided by employer
- May work in any non-LEOFF job with no reduction of benefits
- Fully indexed COLA

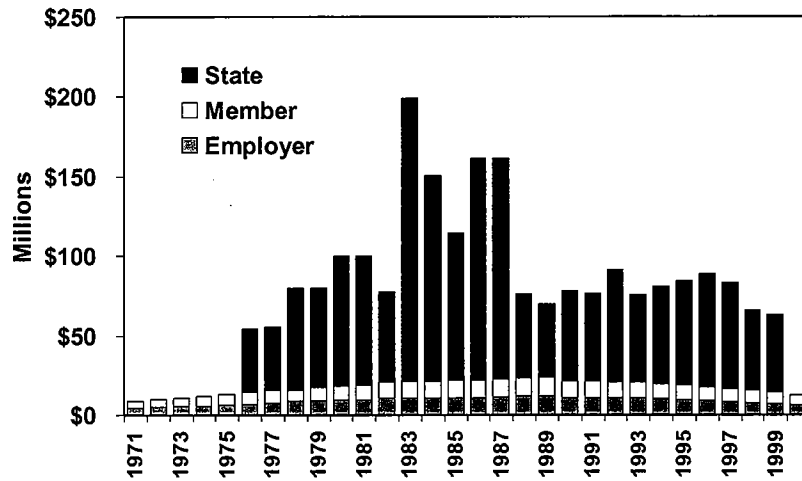
Funding

- Contribution rates
 - 6% for members
 - 6% for employers
 - All remaining costs covered by State
- Contributions suspended
 - July 1999 for the State
 - May 2000 for members and employers

Employer, Member, and State Contribution Rates to LEOFF 1



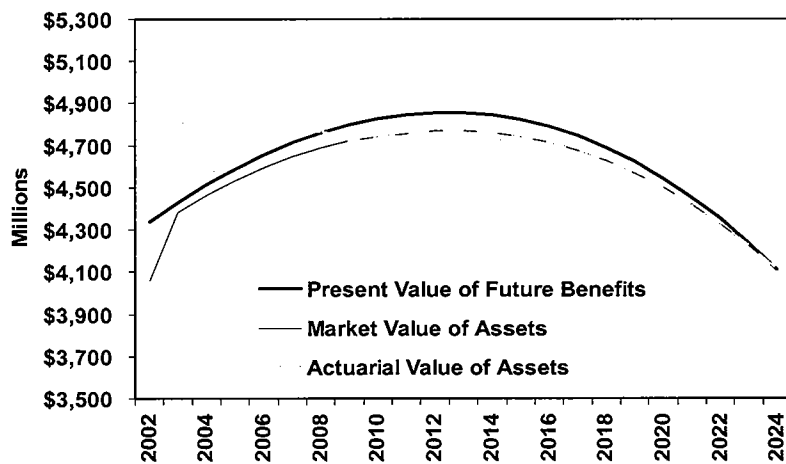
Total State, Member, and Employer Contributions to LEOFF 1



O:\SCPP\2004\10-19-04 Full\LEOFF 1 Issues presentation.ppt

8

Projected Assets and Liabilities in LEOFF 1



O:\SCPP\2004\10-19-04 Full\LEOFF 1 Issues presentation.ppt

9

ISSUES

- Survivor Benefits
- Contributions to Medical Accounts
- Disability board Membership
- 60% Benefit Cap
- Contribution Holiday

Survivor Benefit Proposal

HB 3173: Allow post-retirement spouses to receive fractional benefits even though there is a qualified ex-spouse receiving benefits.

Policy Considerations

- Pension benefits should meet the needs of employees, retirees, and employers within available resources.
- Retirees should have more flexibility in determining the form and timing of their benefits.
- Expansion of eligibility to receive fractional benefits would not conflict with existing policy.

Fiscal Impact

- Actuarially reduced benefits would have no impact on the plan
- New beneficiaries would result in an administrative impact on the Department

Other Legislative Interest

Benefits to many ex-spouses may cease after the members' death. This has the effect of removing a significant income source to those who may have no alternatives.

Legislators have voiced interest in a remedy

Medical Accounts Proposal

HB 3174: Allow members and employers each to contribute up to 6% of pay to medical accounts to help employers pay for catastrophic illnesses of members or beneficiaries.

Policy Considerations

- Medical accounts governed by IRS code. Need to consult Tax Counsel.
- By providing catastrophic medical coverage to beneficiaries, this bill establishes new medical coverage where none has previously been available.

Fiscal Impact

- No impact on the plan
- Impact on Members and employers
 - \$8 million long-term impact
- New beneficiaries may result in an administrative impact on the Department

Disability Board Proposal

HB 3114 / SB 6355: Clarify the qualifications of active or retired LEOFF members who are eligible to serve on the board.

Policy Considerations

- Boards require 2 LEOFF members - one fire fighter and one police officer.
- The bill does not establish new policy, it fine-tunes existing policy in light of declining LEOFF members.

Fiscal Impact

- No impact on the plan

60% Cap Proposal

HB 2416: Increase the limit on member's FAS to 70%

HB 2914: Eliminate the 60% cap on members FAS.

Policy Considerations

- “Fund, to the extent feasible, benefit increases for all plan members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members’ service.”
- Average member is 54 years old with 29 years of service

Other Policy Considerations



- Leapfrogging
 - PERS 1 and TRS 1 both have a 60% cap. Any improvement in LEOFF 1 may illicit request for a similar more costly benefit increase in the other Plan 1s

Fiscal Impact

- Both bills would increase the present value of projected benefits
- Both would draw down the LEOFF 1 surplus
- Plan would emerge from fully funded status one biennium earlier than projected

Contribution Holiday Proposal

Resume member and employer contributions immediately rather than waiting for the funded status to diminish.

Policy Considerations

- “Establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets.”
- Policy is difficult to apply in a fully funded closed plan with a small and declining number of active members

Policy Considerations

- Ideally the funded ratio of DB plans would always be at 100%.
- It is not the goal to have surplus funding.
 - Actuarial assumptions too conservative
 - Members and employers paying too much for the existing benefits

Select Committee on Pension Policy

State Patrol Rate Stability

(October 12, 2004)

Issue

Contribution rate stability and the current cost-sharing provision in the Washington State Patrol Retirement System (WSPRS) are issues for the Washington State Patrol Trooper's Association. They have forwarded their proposals to the SCPP in recent correspondence and analysis.

As of the most recent forecast, member contribution rates in the WSPRS are expected to increase from the current 2.00% minimum to 7.97% during the 2007-2009 biennium, and to 8.93% in the 2009-2011 biennium. Historically, the WSPRS member contribution rate was set in statute at 7.00% of salary. When the plan was reformed in 2001, a new funding method and cost-sharing design were incorporated. As a result, member contribution rates will soon exceed the former statutory rate. While the Trooper's Association endorses the concept of rate stability, they are also interested in reformulating the current cost-sharing formula.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Members Impacted

As of the 2003 valuation there were 1,079 active members of the WSPRS (1,045 in Plan 1 and 34 in Plan 2).

Current Situation

The Washington State Patrol Retirement System (WSPRS) was originally established in 1947, and in 2001 was the last of the Plan 1 design systems to be reformed. Among the numerous modifications to the system were changes to the funding provisions. In the original plan, member contributions were set at 7.00% in

statute with the balance of contributions provided by the employer. The current provisions are a modified cost-sharing design in which members pay half the cost of the plan or 2.00% of pay, whichever is greater.

When the funding provisions were modified, the plan was in fully-funded status and member contributions were 2.00% of pay while employer contributions were 0.00%.

History

From 1995 through 1999, the return on plan assets in the State's retirement funds performed well above the actuarially assumed rate of return. As a result, several plans reached funded ratios significantly above 100%, in essence holding greater assets than there were accrued liabilities. In 1999, the State's contributions were suspended in both the WSPRS and the Law Enforcement Officer's and Fire Fighter's Plan 1 (LEOFF 1) when plan assets exceeded the plan's fully projected benefit liability. In 2000, employee and employer contributions were suspended in LEOFF 1, and employee contributions were lowered to 3% in WSPRS. The 1999 legislature also directed the Joint Committee on Pension Policy (JCPP) to study the method for setting employer and employee contribution rates in the WSPRS during the 2000 interim. During the 2000 interim, JCPP studied and proposed changes to the WSPRS. The JCPP submitted legislation that was enacted in 2001 as Chapter 329. That legislation reformed the WSPRS by:

- Changing the COLA from a simple 2% to a compounded 3% CPI-based adjustment for beneficiaries as well as retirees.
- Changing the employee contribution rate from a fixed 7% to the greater of 2% or the employer rate.
- Excluding prospectively voluntary D.O.T. overtime from the definition of salary.

For new members of the WSPRS commissioned on or after January 1, 2003, the new plan differed from the older plan by:

- Changing from a 2 year to a 5 year Average Final Salary (AFS) for calculating retirement benefits.

- Excluding annual and holiday pay cash-outs from compensation in determining member's AFS.
- Changing military service credit provisions to exclude prior military service and requiring employee contributions for interruptive service.
- Removing the post-retirement death benefit and allowing the member to select an actuarial equivalent benefit option at retirement.
- Changing the pre-retirement death benefit for members not eligible to retire or who have less than ten years of service to a refund of the member's accumulated contributions plus interest. For a member who was eligible to retire or who had at least 10 years of service, the benefit was changed to a reduced accrued benefit or 150 percent of the member's accumulated contributions at the survivor's option.

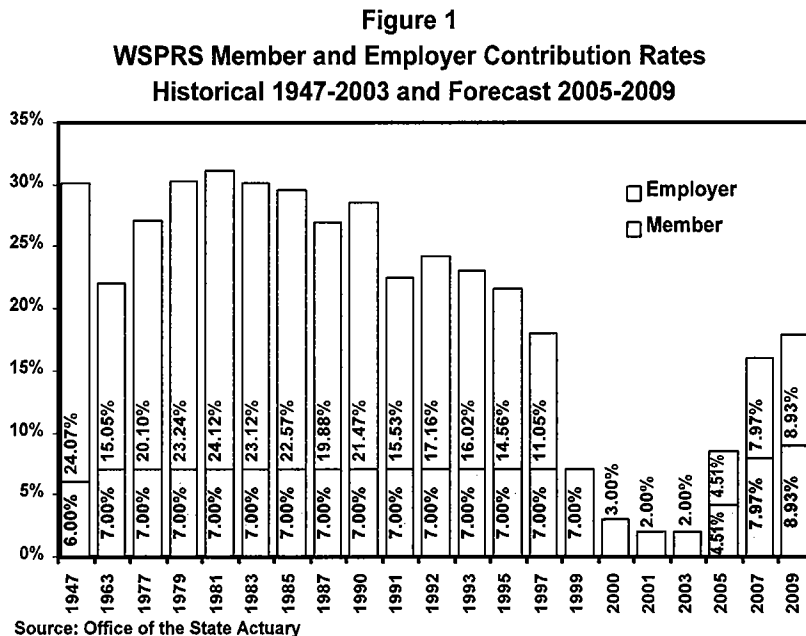
In addition, the legislation provided that the funding of the plan be done on an "aggregate actuarial cost" method, as done for all other Plan 2's. Prior to this change, the system was funded on an "entry age normal" basis.

The legislation also attempted to amend the disability provisions in the WSPRS. The existing provisions gave the Chief a principal role in determining disability. And while injured WSPRS members are eligible for Workers Compensation benefits through the Department of Labor and Industries (L&I), disability retirement benefits have been primarily paid from the WSP operating budget rather than the retirement system or L&I. The sections amending the disability provisions were vetoed because of the possible diminishment of benefits in particular situations.

What is also unusual about the changes made to the WSPRS in 2001, and what makes it distinct from the other Plan 2s, is that those changes did not include a typical Plan 2 funding structure. When the other Plan 2s were created (PERS 2, TRS 2, SERS 2, and LEOFF 2), the original plans were closed, and separate funds and funding methods were established. In the WSPRS there are no separate Plan 1 and Plan 2 funds – all contributions are deposited into the same fund. All members, whether Plan 1 or Plan 2, are part of one actuarial experience group, contributions are calculated with no distinction between the plan members, and all members are subject to the same contribution rate.

Contribution Rate History

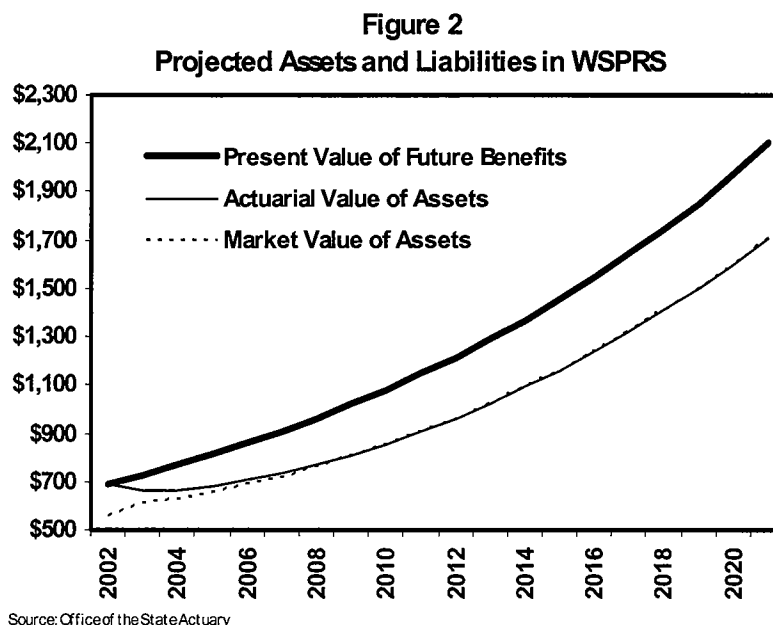
At its creation in 1947, WSPRS member contributions were set at 6% of pay, and the employer rate was approximately 4 times that (see Figure 1). In 1963, the member rate was fixed at 7% of pay, and employer contribution rates have varied between two and three times the member rate. So while the member contribution rate has historically been very stable, the employer contribution rate has fluctuated significantly.



The funding and contribution rate provisions in the WSPRS have, up to 2001, been similar to those of the other Plan 1s. The plan funding was based on the “entry age normal” method, the member rate was set at a constant percent of salary, and the employer rate was whatever else was required to meet the funding needs of the plan including payments to amortize any unfunded liability. All other Plan 1s – PERS, TRS, and LEOFF – still have statutorily fixed member contribution rates of 6% (the LEOFF 1 member contribution rate is currently 0% as the plan is still fully funded). WSPRS is the only Plan 1 design to change its funding method and change its existing member contribution from a fixed percentage to a cost-sharing percent.

After experiencing a funding ratio of 159% in 1999, the WSP Plan is projected to emerge from full funding in the 2005-2007 biennium. The relatively quick reduction of surplus funds in the WSPRS was not just because of the poor investment markets in 2000 and 2001 but also because the plan is open to

new entrants. As new members join, the plan recognizes their liabilities very quickly (see Figure 2), which is then compared with the assets from the single WSPRS fund, including the surplus assets. Contrast this with the surplus funding experience in LEOFF 1: there have been no new members (liabilities) since 1977 and the reduction of surplus funds, as a result, is slower. Member and employer contribution rates in the WSPRS are each expected to surpass 7% in the 2007-2009 biennium.



Because of changes in the WSPRS funding method, member and employer contribution rates are expected to move in unison once the total costs reach and surpass 4% of pay. This is somewhat characteristic of a cost-sharing funding method. The principal difference between the WSPRS and other Plan 2s is the 2% minimum member contribution in the WSPRS; minimum member contributions are not found in the other Plan 2s. As a result of the minimum contribution requirement, WSPRS members will, in the long-run, pay more than half the cost of the plan.

Cost-sharing and Plan Value

Because of the varying degrees of funded status, the value of the retirement plans – the benefits provided to members in retirement – and the long-term level of cost-sharing are not necessarily reflected in the current contribution rates. There are several plans that are not fully funded (see Figure 3) and their

contribution rates are higher to pay for the plans' unfunded actuarially accrued liability. Other plans are in surplus, and depending on the funding method may have lower contributions, or no contributions. Because of these funding differences current contribution rates do not reflect the long-term value of the plans.

Figure 3
Funded Ratios of Plan 1 Systems
and WSPRS 2003

PERS 1	TRS 1	LEOFF 1	WSP
85%	93%	112%	123%

A more appropriate indicator of plan value, or benefit value under a defined benefit plan, is the entry age normal cost of the plan. This prices the plan based on the cost of the benefits and the long-term realization of all actuarial assumptions. In this manner, the contribution rates reflect the demographic characteristics of plan members and the value of the benefits in the plan rather than the short-term gains or losses in plan assets. The normal cost of the various retirement systems and plans are shown in Figure 4.

Figure 4
Entry-Age Normal Contribution Rate and Social Security Contribution
by System and Plan: Total Percent of Pay

Plan	Entry Age Normal Cost			Social Security Tax			Entry Age + Soc Sec		
	Member	Employer*	Total	Member	Employer	Total	Member	Employer	Total
PERS 1	6.00%	5.31%	11.31%	6.20%	6.20%	12.40%	12.20%	11.51%	23.71%
PERS2/3	4.46%	4.46%	8.92%	6.20%	6.20%	12.40%	10.66%	10.66%	21.32%
TRS 1	6.00%	7.30%	13.30%	6.20%	6.20%	12.40%	12.20%	13.50%	25.70%
TRS 2/3	5.43%	5.43%	10.86%	6.20%	6.20%	12.40%	11.63%	11.63%	23.26%
SERS	4.71%	4.71%	9.42%	6.20%	6.20%	12.40%	10.91%	10.91%	21.82%
LEOFF 1	6.00%	22.46%	28.46%	0.00%	0.00%	0.00%	6.00%	22.46%	28.46%
LEOFF 2	8.36%	8.36%	16.71%	0.00%	0.00%	0.00%	8.36%	8.36%	16.71%
WSPRS	10.69%	10.69%	21.38%	0.00%	0.00%	0.00%	10.69%	10.69%	21.38%

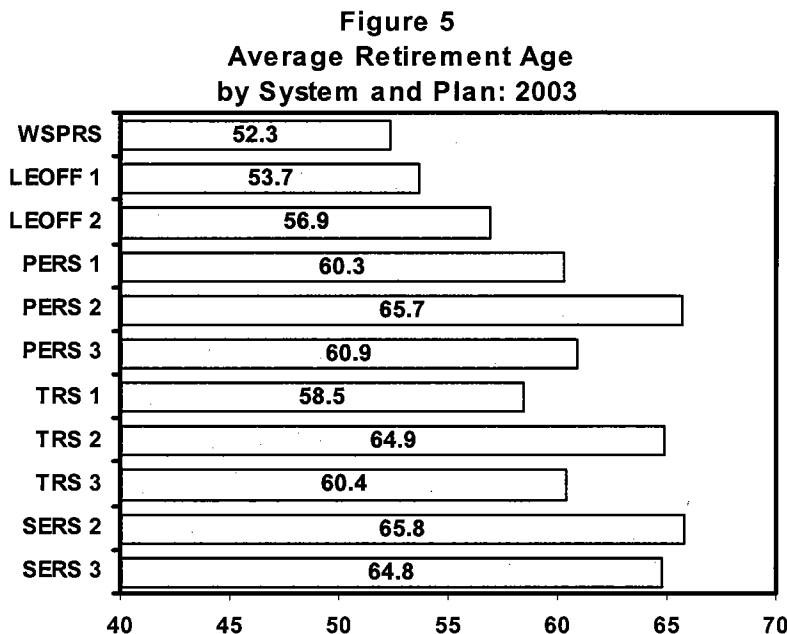
*Does not include contribution rate for Plan 1 UAAL.

Taking into account both State retirement and Social Security, total contributions to Washington's retirement systems can easily surpass 20% of pay in most plans. The employer commitment to Washington's retirement plans, again summing the normal cost plus any employer contributions to Social Security, can surpass 10% of pay. The total employer contribution in

the WSPRS is 10.69% of pay compared to 10.66% on PERS 2/3 and 11.63% in TRS 2/3. The entry age normal cost for the WSPRS is based on the current mix of Plan 1 and Plan 2 members. This rate will decrease as Plan 1 members are replaced by Plan 2 members.

Age Provisions and Plan Value

All Washington's systems and plans have similar benefit formulas (2% of average final compensation × years of service). Such similar provisions will not cause cost differences within the Plan 1s, or within the Plan 2s. The more costly element that will differentiate these systems and plans is the age at which a member is allowed to retire and receive a benefit. The younger the retirement age, the longer a benefit is received, and the costlier the plan. Because of the inherent danger and physical stresses of public-safety occupations, the age and service provisions in WSPRS and the LEOFF Plans allow for full retirement benefits at relatively young ages: at age 50 in LEOFF 1, age 53 in LEOFF 2, and at age 55 or after 25 years of service in WSPRS. Many WSPRS members have become eligible for full benefits before reaching age 50. The average retirement ages in these public-safety plans are reflective of those provisions (see Figure 5) which would make them more costly than the remaining plans.



Three-Legged Stool

The “three-legged-stool” pension model is one in which an individual’s retirement income is derived from three sources: an employer provided pension, personal savings, and Social Security. Social Security benefits are available to all employee groups who elect to join and make contributions. Those contributions are currently 6.2% of pay, up to \$87,000 (indexed) in earnings, for both the employee and employer.

Many public-safety retirement plan members, including WSPRS members, do not pay into the Social Security system. Members of several general public employee retirement plans also do not pay into Social Security, Alaska and Ohio Public Employee’s Retirement System being examples. Plans covering employees who do not pay into Social Security tend to have more generous benefits than those where members do make Social Security contributions. This is a tacit acknowledgment that when one leg of the three-legged stool is absent, one of the other legs must be more substantial.

WSPRS members also do not pay into Medicare. PERS, TRS, and SERS members and their employers each pay 1.45% of salary as contributions to Medicare.

Even if WSPRS members do not pay into Social Security, that does not necessarily mean they won’t inevitably receive Social Security benefits. It is understood that by retiring relatively young, not all members will be permanently leaving the work force. Retired WSPRS members will likely be working in some other public or private-sector job until fully retired; one in which they would probably be contributing to Social Security.

Contributions and Funding in Comparative Systems

Contributions among the comparative states will be different because of the differences in benefit design, funding policies, cost-sharing, and the presence of unfunded liabilities. Employer contributions among the comparison states ranged from 0.00% in Washington to 43.54% in Missouri (see Figure 6).

Figure 6
Comparisons of Provisions in Select State Trooper Plans

	Contribution Rates		Benefit Multiplier: ____% × Years of Service	Benefit Requirements Age / Service
	Employer	Member		
California	32.65%	8.00%	3.0% (max 90%)	50 / 5
Colorado	12.85%	10.00%	2.5%	50 / 25, 55 / 20, 60-64 / rule of 80, 65 / 5
Florida	22.15%	0.00%	3.0%	55 / 6, Any age / 25
Idaho	10.73%	7.65%	2.3% (max 100%)	50 / Rule of 80
Iowa	17.00%	9.35%	2.75% (max 88%)	55 / 22
Minnesota	12.60%	8.40%	3.0%	55 / 3
Missouri	43.54%	0.00%	1.7%	48 / Rule of 80
Ohio	24.50%	10.00%	2.5% up to 20 years, 2.25% 21 to 25 years, 2.00% per year thereafter (max 79.25%)	48 / 25
Oregon	9.49%	6.00%	2.0%	55 / any service, 50 / 25, Any age / 30
Washington	0.00%	2.00%	2.0% (max 75%)	Any age / 25, 55 / Any service

Florida and Missouri are non-contributory plans.

Iowa employer contribution did not include a payment to the plan's unfunded liability.

Missouri employer contribution rate includes a 29.21% payment for the plan's unfunded liability.

California employer contribution rate includes an 18.13% payment for the plan's unfunded liability.

Missouri members pay into Social Security.

Among these comparative systems, only WSPRS has a 50-50 (as long as the costs exceed 4% of pay) cost-sharing design. Most rely on a statutory contribution by the members and a residual contribution by employers to pay the remaining cost of the plan. Two of the plans, Florida and Missouri, are non-contributory plans, meaning the members make no contributions at all.

Benefit design has a direct bearing on the cost and funding requirements of these plans. The California State Patrol plan recently instituted a 3% per year benefit multiplier which will result in a larger benefit and require greater contributions than the 1.7% multiplier used in Missouri. However, Missouri troopers and their employer, pay into Social Security thus providing a benefit that does not show in this accounting.

Funding methods also add to the difficulties in comparing contribution rates. The current funding method in Washington is the aggregate actuarial cost method in which no unfunded actuarially accrued liability (UAAL) is allowed to accumulate outside the plan's normal cost. All of the comparison States use

the “entry age normal” funding method and have varying levels of unfunded liabilities. For instance, in Missouri the great majority of their current employer contributions are to cover the plan’s UAAL. Over half of the employer contributions in the California Highway Patrol plan are payment for the plan’s unfunded liability. Idaho and Colorado’s trooper plans also have unfunded liabilities that add to their employer contribution rates. Iowa’s trooper plan also has a significant unfunded liability that could increase their current employer contribution rate by up to 12 percentage points if they chose to fund it. Unfunded liabilities create generational equity issues in that the cost of unfunded pension liabilities of current retirees are passed to future taxpayers.

LEOFF 2 Comparison

The other open public safety related retirement system in Washington State is the Law Enforcement Officers and Fire Fighters retirement system Plan 2 (LEOFF 2). A new Public Safety Employee’s Retirement System (PSERS) will open in 2006, but until that time LEOFF 2 will be the point of comparison. Benefit provisions in WSPRS 2 and LEOFF 2 are similar in many ways, particularly in terms of vesting, benefit formula, and COLAs. Where the WSPRS differs is in the provision allowing a member with 25 years of service to retire with an unreduced benefit. This is characteristic of the service-based criteria found in the Plan 1 designs and still found in WSPRS 2. This is more costly than the age and service provision in LEOFF 2.

As with all the Plans 2, the WSPRS and LEOFF 2 are similar in that they both use the “aggregate actuarial cost” funding method (see Figure 7). This method reacts quickly to changes in asset returns, and does not allow the accumulation of an unfunded liability outside the plan’s normal cost.

Figure 7
Funding Provisions in WSPRS 2 and LEOFF 2

	WSPRS 2	LEOFF 2
Funding Method	Aggregate Actuarial Cost	
Member Contributions	2% or half the cost of the benefits, whichever is greater.	Half the cost of member benefits
Employer Contributions	(The State is the employer)	30% of the cost of members benefits
State Contributions	Half the cost of members benefits unless total costs are under 4%.	20% of the cost of members benefits

Besides the minimum member contribution in WSPRS, the principal difference in funding policy between the plans is how the employer costs are divided in LEOFF 2. The state is the employer for WSPRS members and pays half the cost of the retirement plan benefits, as long as the costs exceed 4% of pay. While the State is not the employer in LEOFF 2, it still pays 20% of the cost of the benefits, while the actual local government employer pays 30% of the cost of the benefits. A State contribution for those who are local government employees is not found in the other Washington systems and plans; it is likely a design borne of the significant state contributions to the original LEOFF 1 Plan.

Proposed Cost-sharing Formula

The Trooper's association has proposed reworking the cost-sharing formula. The current 50-50 split with a 2.00% member minimum would be changed to 1/3 member, 2/3 employer, with the member rate capped at 7%. Historically the plan required 7.00% of pay from the members with the State liable for the remaining costs. This resulted in members paying, on average, about one-third of the plan's costs and the employer (the State) paying about two-thirds.

Fiscal Impact

Fiscal analysis of this proposed cost-sharing formula show the member contribution rate in the 2005-2007 biennium declining by 1.5% and the employer rate increasing by 1.5%. This would result in an additional \$2.4 million in State contributions to the WSPRS during the 2005-2007 biennium. With a long-term expected normal cost of 21.38%, the current 50-50 cost-sharing would result in member rates and employer rates each trending to 10.69%. Under the 1/3-2/3, 7% cap proposal, the member rate would reach a maximum of 7% while the employer rate would trend to 14.39%. The 25-year cost to the State would be \$123 million.

Policy Analysis

The policy questions in regards to the WSPRS contribution rate stability issue is whether the plan adheres to the cost-sharing policies outlined for the Plan 2s, whether the current volatile contribution rates are in conflict with existing funding policy, and whether the proposed contribution formula, with the 7% cap, is in keeping with current policy.

Cost-sharing

One of the implicit policies formulated by the Joint Committee on Pension Policy states that "... costs should be shared equally between employees and employers."

When the total funding requirements of the WSPRS are 4% of salary or greater, there is equal cost-sharing. If, as has been the case over the past several years, the plan is fully funded and requires no contributions, then members pay the only contributions to the plan. Since members make contributions when none are necessary but the employer does not, the members will, in the long-run, not share equally in the costs of the plan. The proposed 1/3-2/3 cost-sharing formula would be consistent with past practices for the WSPRS but inconsistent with current cost-sharing policies of the Plan 2 systems. The prospect of member contribution rates climbing over 7.00% may also raise a Bakenhus issue for existing Plan 1 members. Existing members never paid contributions above 7.00% of pay. The Bakenhus decision does allow for changes in retirement plan provisions as long as the trade-offs are of equivalent value. In the reform of the State Patrol Plan in 2001, existing members and their beneficiaries received a benefit increase in the form of a 3% CPI-based COLA for retirees and survivors; retirees formerly had a 2% simple COLA, and only in 2000 were survivors eligible to receive a 2% simple COLA. Existing members also received more flexibility in providing survivor benefits for their beneficiaries. Though not a permanent benefit, members also received a short term decline in their contribution rate.

Rate Volatility

Within the Finding Chapter (RCW 41.45) is the policy goal to "establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets."

The projected increases in employer and member contribution rates have brought this policy to the forefront in current retirement discussions. The volatility of the contribution rates, both during the recent past and over the next several biennia, is in conflict with this existing funding policy. Legislation has been enacted in the past two sessions to address this volatility, and is expected to smooth out any such future fluctuations (Chapter 11 laws of 2003 extended session, and chapter 93 laws of 2004.)

Rate predictability and stability is an issue impacting all systems and plans, including the WSPRS. In response to this volatility the funding report of the State Actuary, heard by the SCPP in July of this year, included a recommendation to establish minimum Plan 2/3 contribution rates based on a combination of entry age and aggregate methods. The report also recommended that the rate charged employers to fund the Plan 1 unfunded liability not be allowed to decrease until the plans were at a funded ratio of 125%. These recommendations seek to add a greater degree of predictability and stability to the funding of the retirement plans in keeping with existing policies.

In addition, the SCPP Pension Funding Council Subgroup proposed a phase-in of the projected rates increases over the next 3 biennia. While this would incur additional costs to the plans, it would observe the policy of predictability.

Policy Conclusion

Two particular elements within the WSPRS design have policy implications. The presence of a minimum contribution rate for members results in an imbalanced cost-sharing relationship. Without an equivalent minimum contribution rate for the employer, members will not share equally with the State in the cost of the plan. The proposed 1/2-2/3 contribution formula with a 7% member cap may be in keeping with historical Plan 1 policy, but would be establishing new policy within the Plan 2 systems. The other policy element relates to the stability of the contribution rates; by using the aggregate method to fund the plans, benefits are fully paid over the working lives of the members and no unfunded liability is allowed to accrue outside the plan's normal cost. This does result in rate volatility which may be in conflict with existing funding policy. However, recent legislation has set in place new smoothing methods and asset corridor measures to address this volatility. Furthermore, additional funding recommendations are before the SCPP this interim which also apply to the WSPRS.

Stakeholder Input

Robert Thurston, President
Washington State Troopers Association
See attached correspondence



WASHINGTON STATE PATROL TROOPERS ASSOCIATION

200 UNION AVE. SE STE. 200 , OLYMPIA, WASHINGTON 98501 (360) 704-7530 FAX (360) 704-7527

September 9, 2004

RECEIVED

SEP 13 2004

COPY

Senator Karen Fraser
P.O. Box 40422
Olympia, WA 98504-0422

Office of
The State Actuary

Re: WSPRS Contribution Rate Stability

Dear Senator Fraser:

Thank you for taking the time to meet with Rick Jensen and Paul Neal to contribution rate stabilization. We share your concerns, and appreciate your leadership, in this area. All of the systems have seen wide swings in rates in the last six years, but those fluctuations have been most dramatic in the Washington State Patrol Retirement System (WSPRS).

The current contribution rate stabilization recommendation put forward by the State Actuary would require an amendment to the statutes governing contribution rates for the WSPRS. We ask that those amendments incorporate our proposal.

We are proposing a WSPRS contribution formula that is consistent with the statutory history and past practice of the Legislature and the Pension Funding Council:

- 7% cap on member contributions;
- 1/3 – 2/3 member to employer contribution ratio effective July 1, 2005.

I am enclosing a copy of our briefing paper on the issue. I would appreciate it if you could give the Trooper's association fifteen to twenty minutes on the October SCPP agenda to present this issue to the full committee.

We are also concerned about retiree health insurance. There are a number of optional plans authorized by the federal tax code. There also appears to be a lot of confusion about what those plans are and how they work. Please consider making the study and discussion of this issue a top priority for the SCPP's work during the 2005 interim.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Thurston', with a long horizontal stroke extending to the right.

Robert Thurston, President
Washington State Trooper's Association

cc: Matt Smith

Contribution Rate Stability For Trooper Retirement

September 3, 2004

The Trooper's association shares the SPCPP's concern for contribution rate stability. We support the idea of working towards a minimum contribution rate that will guard against the wild swings we are currently experiencing. Under the Actuary's current recommendation, those minimum contribution rates would be equal for employers and employees. The unique history of Trooper retirement requires a modified application.

How We Got Here

Up until 2001, the Troopers paid a statutorily fixed 7% contribution rate. Historically, Troopers have paid one-third of the system cost and the State has paid two-thirdsⁱ.

In 1999 the State's contribution to WSPRS dropped to 0.00%, where it has stayed ever since. In 2001 the Legislature changed the funding formulaⁱⁱ greatly reducing the State's obligation. Instead of picking up two-thirds of the cost, the State changed its maximum obligation to one-half. Troopers were required to pick up the slack.

Since 1999 the State has paid nothing while the Troopers have continued to pay. Beginning in 2005, the system cost will exceed 4% of salaryⁱⁱⁱ. At that point the Troopers and the State will each be sharing half of the total cost. Beginning in 2007, Trooper contributions will exceed 7%.

Where We Are

Washington State Troopers appear to get better retirement benefits than other State employees. In reality, the State's current funding commitment to Trooper's retirement is much less. The State makes Social Security Contributions for all its employees - except Troopers.

Current employer retirement contribution policy:

	Employer Pension Contribution Policy	10 year average annual employer contributions
Troopers (WSPRS)	(A) One-half of actuarial cost of WSPRS ^{iv} ;	5.12% of salary
All Other State Employees (PERS 2 plus Social Security)	(A) One-half of actuarial costs of PERS; PLUS (B) 7.65% of salary for social security and medicare	12.03% of salary

Prior to 1999, the level of State retirement contributions for Troopers was equivalent to contributions for other State employees. The State didn't contribute to Social Security for Troopers, but it spent more on WSPRS than on PERS. That made sense. In 2001, that one-third/two-thirds contribution ratio was replaced with a ratio of fifty/fifty. By 2007 Trooper contribution rates will exceed the contractually fixed 7% level.

Contribution Rate Stability for Troopers

The Actuary's proposal calls for phasing in a contribution rate floor of 90% of the entry age normal cost. Employees would pay half that cost. For Troopers, that means a *minimum* of 9.45% - 36% over the statutorily fixed amount. Contribution rate stability needs to be consistent with the contractual history of Trooper retirement funding. The Trooper's propose:

- Trooper contribution rates capped at 7% - one-third of the current 21% normal cost.
- Contribution ratio of 1/3 - 2/3.
 - Adopt same floor as other plans but with 1/3 – 2/3 cost division. This reinstates the old formula and recognizes the lack of employer social security contributions.
 - Apply new formula beginning with 05-07. This apportions the predicted rate increases using the 1/3-2/3 formula. In addition to reinstating the old formula, this is a partial recognition of the fact that Trooper's have made contributions for the last six years while the State has paid nothing.

Notes

- i. 15.1 % Average annual employer contribution to WSPRS since 1963 (7% employee contribution). 13.74% Average annual employer contributions for other state employees.
- ii. RCW 41.45.0631 (Ch. 329, Laws of 2001) enacted the following formula:
 - Troopers pay 2% of salary or one-half of retirement cost, whichever is greater;
 - State pays:
 - Less than Troopers if total cost of system is less than 4%; or
 - One-half of retirement cost if total cost exceeds 4%.
- iii. Projected WSPRS contribution rates from the OSA website:

	2003-05	2005-07	2007-09	2009-11
Troopers	2.00%	4.22%	7.97%	8.93%
Employer	0.00%	4.22%	7.97%	8.93%

- iv. RCW 41.45.0631; the state makes a Medicare contribution of 1.45% for Troopers employed after July 1, 1986.
- v. RCW 41.45.061

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

September 24, 2004

Chief Lowell M. Porter
Washington State Patrol
General Administration Building
P.O. Box 42600
Olympia, Washington 98504-2600

Chief Porter:


The Select Committee on Pension Policy (SCPP) will be holding its next hearing on October 19, 2004, from 10:00 am to 1:00 pm in Senate Hearing Room 4. Among the issues being presented will be Washington State Patrol Retirement System (WSPRS) Contribution Rates.

Based on the results of the 2003 actuarial valuation, the Office of the State Actuary and the SCPP forwarded contribution rate recommendations to the Pension Funding Council for the 2005-2007 biennium. The recommended employer and member contribution rates for the WSPRS were 4.51% of pay.

WSPRS member contribution rates are forecast to exceed 7% in the 2007-2009 biennium. The Troopers Association has asked the SCPP to address this issue.

You are welcome to attend the hearing. Any information you may want to share in this regard would be appreciated.

Sincerely,


Robert Wm. Baker
Senior Research Analyst

cc: Senator Karen Fraser, Chair SCPP
Robert Thurston, Washington State Troopers Association

Enclosure

O:\SCPP\2004\10-19-04 Full\WSP letter.wpd

Representative Gary Alexander

Elaine M. Banks
TRS Retirees

Marty Brown, Director*
Office of Financial Management

Senator Don Carlson

John Charles, Director
Department of Retirement Systems

Representative Steve Conway*
Vice Chair

Representative Larry Crouse

Richard Ford
PERS Retirees

Senator Karen Fraser*
Chair

Representative Bill Fromhold

Leland A. Goeke*
TRS and SERS Employers

Bob Keller
PERS Actives

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Glenn Olson
PERS Employers

Diane Rae
TRS Actives

Senator Debbie Regala

J. Pat Thompson
PERS Actives

David Westberg*
SERS Actives

***Executive Committee**

(360) 753-9144
Fax: (360) 586-8135
TDD: 1-800-635-9993

State Patrol Rate Stability

Robert Wm. Baker
Senior Research Analyst

Select Committee on Pension Policy
October 19, 2004

ISSUE

- Member rate formerly set in statute
- Now a 50-50 cost-sharing design
 - 2% member minimum
- Member rates projected to surpass 7%
- Reformulate cost-sharing design
 - $\frac{1}{3}$ member, $\frac{2}{3}$ employer, with a 7% cap on member contributions

Members Impacted

- 1,079 Active
 - 1,045 in WSPRS 1
 - 34 in WSPRS 2
 - With no former 7% cap issue

Current Situation

- WSPRS established in 1947
- Last of the Plan 1 systems to be reformed – 2001
- Employer contributions suspended in 1999
- Member contributions lowered to 3% in 2000 and 2% in 2001.

Chapter 329 Laws of 2001

- 2% simple COLA changed to 3% compounding COLA
- Member contribution rate changed from 7% fixed to half the cost of the plan or 2% whichever is greater
- Exclude voluntary DOT overtime from the definition of salary

Changes for New Members

- 5 year AFS
- Exclude annual and holiday cash-outs from AFS
- No prior military service credit
 - Requiring contributions for interruptive military service credit

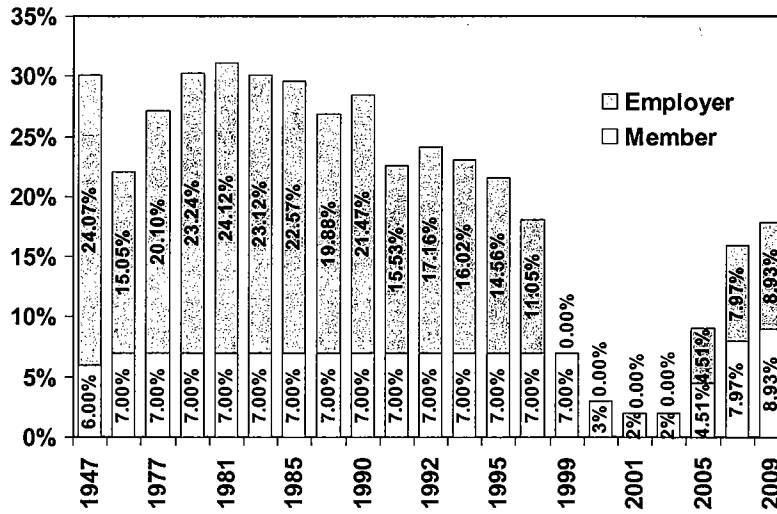
Changes for New Members

- New joint and survivor benefit options
- Death benefit changed to Plan 2 design
 - Refund of contributions + interest
 - Earned benefit or 150% refund

Funding Changes

- Aggregate actuarial cost method
- No WSPRS 2 fund
 - All contributions to the same fund
 - All members part of the same experience group
 - All members pay same contribution rate

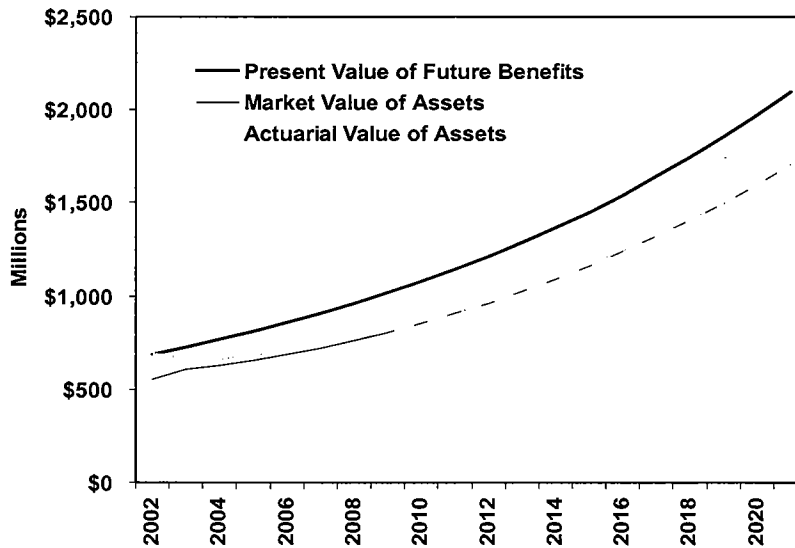
WSP Member & Employer Contribution Rates Historical 1947-2003 & Forecast 2005 - 2009



O:\SCPPA2004\110-19-04 Full\WSP Rate Stability presentation.ppt

8

Projected Assets and Liabilities in WSPRS



O:\SCPPA2004\110-19-04 Full\WSP Rate Stability presentation.ppt

9

Funded Ratios of Plan 1 Systems and WSPRS: 2003

PERS 1	TRS 1	LEOFF 1	WSPRS
85%	93%	112%	123%

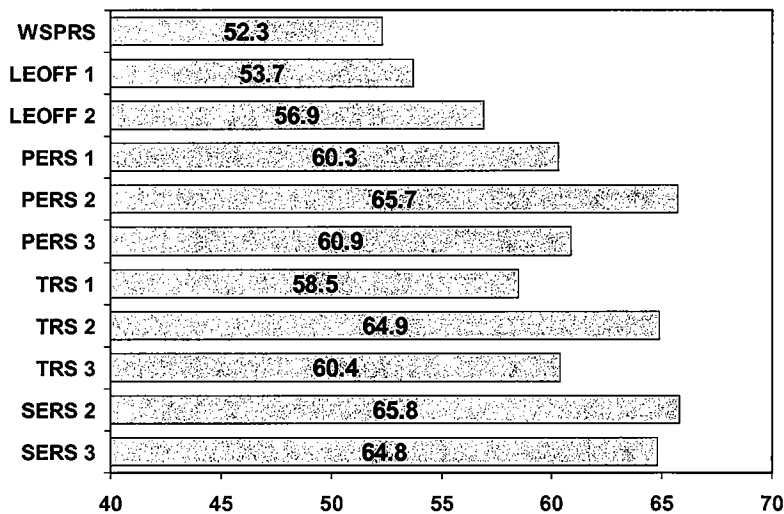
Entry Age Normal Cost by System and Plan

	Member	Employer	Total
PERS 1	6.00%	5.31%	11.31%
PERS 2/3	4.46%	4.46%	8.92%
SERS 2/3	4.71%	4.71%	9.42%
TRS 1	6.00%	7.30%	13.30%
TRS 2/3	5.43%	5.43%	10.86%
LEOFF 1	6.00%	22.46%	28.46%
LEOFF 2	8.36%	8.35%	16.71%
WSPRS	10.69%	10.69%	21.38%

EANC + Soc Sec by System and Plan

	Member	Employer	Total
PERS 1	12.20%	11.51%	23.71%
PERS 2/3	10.66%	10.66%	21.32%
SERS 2/3	10.91%	10.91%	21.82%
TRS 1	12.20%	13.50%	25.70%
TRS 2/3	11.63%	11.63%	23.26%
LEOFF 1	6.00%	22.46%	28.46%
LEOFF 2	8.36%	8.35%	16.71%
WSPRS	10.69%	10.69%	21.38%

Average Retirement Age by System and Plan: 2003



Contribution Rates in Select State Trooper Plans

	Employer	Member	Member % of Total Contributions
California	32.65%	8.00%	19.7%
Colorado	12.85%	10.00%	43.8%
Florida	22.15%	0.00%	0.0%
Idaho	10.73%	7.65%	41.6%
Iowa	17.00%	9.35%	35.5%
Minnesota	12.60%	8.40%	40.0%
Missouri	43.54%	0.00%	0.0%
Ohio	24.50%	10.00%	29.0%
Oregon	9.49%	6.00%	38.7%
Washington	0.00%	2.00%	100.0%

O:\SCPP\2004\10-19-04 FullWSP Rate Stability presentation.ppt

14

Funding Provisions in WSPRS 2 and LEOFF 2

	WSPRS 2	LEOFF 2
Funding Method	Aggregate Actuarial Cost	
Member Contributions	2% or half the cost of the benefits, whichever is greater	Half the cost of the member benefits
Employer Contributions	(The State is the employer)	30% of the cost of member's benefits
State Contributions	Half the cost of member benefits unless total costs are under 4%	20% of the cost of member's benefits

O:\SCPP\2004\10-19-04 FullWSP Rate Stability presentation.ppt

15

Proposed Cost-sharing Formula

- $\frac{1}{3}$ of cost paid by Members
- $\frac{2}{3}$ of cost paid by Employer
- 7% cap on Member contributions

Fiscal Impact

- 2005-2007
 - Employer contribution rate increases from 4.51% to 6.01%
 - \$2.4 million increase in State costs
- 25-year
 - 7.0% Member contribution rate
 - 14.38% Employer contribution rate
 - \$123 million increase in State costs

Policy

- Cost-sharing
- Contribution rate stability

Cost-sharing

- Plan 2 design
 - “... costs should be shared equally between employees and employers.”
- 2% minimum member contribution
 - Members make contributions when none are necessary
- Long-term costs not shared equally

Cost-sharing

- Proposal is consistent with past policy
- Not consistent with current Plan 2 policy
- Possible Bakenhus issue
 - Most members never paid above 7%
 - Bakenhus allows for benefit trade-offs

Contribution Rate Stability

- "... establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets."
- Volatile contribution rates in conflict with existing policy

Contribution Rate Stability

- Chapter 11 Laws of 2003
- Chapter 93 Laws of 2004
- Funding Report of the State Actuary
 - Minimum contribution rate methodology
 - Contributions to UAAL
- Pension Funding Council Subgroup

Conclusion

- Cost-sharing Issue
 - Continue Plan 2 policy of 50-50 sharing
 - Return to Plan 1 design
 - Bakenhus question
- Rate Stability Issue
 - Recent legislative efforts
 - Current recommendations
 - Include WSPRS

Select Committee on Pension Policy

Post-Retirement Employment

(October 6, 2004)

Issue

This report is intended to supplement the in-depth report on this issue made to the Select Committee on Pension Policy in December 2003. This report will recap the issue in a simplified way, then discuss some of the more sensitive aspects of post-retirement employment. Post-retirement employment is a controversial subject, not only within the state of Washington but throughout the entire country. This paper will explore some of the difficult policy questions that arise in connection with this issue, as well as some of the legal constraints and technicalities that are applicable. It will also touch on some of the trends that are pressuring policy makers to continue to address the issue of post-retirement employment.

Staff

Laura Harper, Sr. Research Analyst/Legal
360-586-7616

Members Impacted

Recent legislative activity has focused on Plan 1 of the Teachers' Retirement System (TRS 1) and Plan 1 of the Public Employees' Retirement System (PERS 1). As of the most recent actuarial valuation (2002), there were 12,456 active members and 33,148 retirees in TRS 1. There were 21,737 active members and 54,006 retirees in PERS 1.

Current Situation

Generally, all retired members of PERS and TRS have a **waiting period** before they may return to employment. In most instances, the waiting period is thirty (30) days. If retirees return to work prior to completion of the waiting period, their benefits are effectively suspended due to mandatory reductions in the benefit amounts (5.5% for every eight hours worked during that month to a maximum of 160 hours in PERS, and 5.5% for every seven hours worked during the month to a maximum of 140 hours in TRS).

The PERS and TRS systems allow retirees to return to employment, but there are limits on the number of hours that may be worked without suspension of retirement benefits. The **hour limits** start over with each new calendar year and vary among the plans. Generally, for the Plans 2/3 the hour limit is 867 hours. For the Plans 1, retirees may work up to a limit of 1,500 hours without suspension of their pension benefits, however they are subject to limits on their **contractual** rights to return to work of 5 months in PERS 1 and 525 hours in TRS 1.

PERS 1 retirees are subject to more specific rules affecting waiting periods and hour limits. Those seeking to return to work for 1,500 hours are subject to a 90-day waiting period. Also, these employees are subject to a 1900-hour cumulative or "lifetime" limit on the number of hours that may be worked beyond 867 hours annually. Once the 1,900 hour limit is reached, PERS 1 retirees may work up to 867 hours in subsequent calendar years before their benefits are suspended. PERS 1 retirees are also subject to an amended definition of "separation from service" so that any written or verbal agreement to return to work with the same employer nullifies the separation and creates a potential violation of the statute entitled "Penalties for False Statements," RCW 41.40.55. Further, employers are subject to certain record-keeping requirements when they hire these retirees to work for 1,500 hours, including documentation of the need to hire the retirees and records of the actual hiring process.

Simplified History

The door to post-retirement employment was first opened in the mid-1960's. Since then, there have been numerous changes to the pertinent plan provisions, most of which involved the length of the waiting period and the

limits on the numbers of hours that may be worked before retirement benefits are suspended. A complete history is found in the December 2003 Post-Retirement Employment Report to the SCPP that is included with this report.

In 2001 Washington State pension law was changed to expand post-retirement employment opportunities for members of TRS 1 and PERS 1. The hour limits for these plans were increased to 1,500. The earlier limits had been 5 months for PERS 1; in TRS 1 the limits had been 525 hours for substitute teachers, 630 for substitute administrators and 840 for substitute teachers or principals in school districts with documented labor shortages. The new limits under the 2001 law translated to nine months in PERS 1 and a complete school year for TRS 1.

The 2001 law called for the Office of the State Actuary to study the fiscal and policy impacts of the act. If the State Actuary determined that the expansion of post-retirement employment options resulted in increased costs for the state retirement funds, the Actuary would propose a process to charge the employers for the costs incurred. The Select Committee on Pension Policy heard its first report in 2003. At its meeting on December 16, 2003, the SCPP decided to defer action until further data and study was available, as there was an insufficient amount of experience data to determine the cost.

Further legislative changes involving post-retirement employment occurred in 2003, and these changes only affected members of PERS 1. The changes were applicable to those PERS 1 retirees seeking to work up to the new limit of 1,500 hours, and they are described above under "Current Situation." Similar changes had been proposed in 2003 for TRS 1 but were vetoed. During the 2004 legislative session HB 2640 was introduced to reinstate most of the TRS 1 restrictions that had been vetoed by the Governor in 2003. This bill died in House Appropriations.

Fiscal Impact of 2001 Legislation: Indeterminable at This Time

One of the keys to determining cost is experience data. Typically actuaries study retirement plan experience every 5 to 6 years and adjust long-term retirement assumptions based on actual retirement experience.

Generally, post-retirement employment provisions generate a cost to the retirement system when they cause a significant increase in the number of retirements over what is assumed under normal long-term plan experience.

The 2001 legislation that expanded post-retirement employment opportunities for members of PERS 1 and TRS 1 included a study mandate directing the State Actuary to determine whether new provisions have resulted in increased costs for the state retirement funds, and if so, to propose a process to charge those employers who employ retirees pursuant to the new provisions.

As indicated in the Post-Retirement Employment Report dated November 24, 2003, there was an insufficient amount of experience data to reach a reliable conclusion on the question of cost at that point in time. At its December 16, 2003 meeting, the Select Committee decided to defer action until further data and study is available. As of the date of this report, the Office of the State Actuary has collected a total of nine quarters (2.25 years) of data. A minimum of five years of experience data is needed.

Current Data

While additional data has been gathered since the December 16, 2003 meeting, this data appears to be largely consistent with what had been gathered before. Again, the preliminary nature of the data should be emphasized. Nine quarters of data is not sufficient to reliably establish whether new employment trends or retirement patterns have been created as the result of the 2001 and 2003 legislation. For examples of the types of data that are being collected, see pages 13-17 of the December 2003 Report.

Policy Analysis

The following discussions were not highlighted in the December 2003 report. They include a review of policy and plan design issues, legal issues and trends.

Post-retirement employment is one of the most controversial issues that public pension policy-makers face. The controversy arises when the retired employee is allowed to draw a retirement benefit while earning a salary, and in some instances, while accruing another benefit. There are at least **two philosophies of post-retirement employment:**

- 1) "They earned it and the benefit is paid for, so why not?"
- 2) "If it's not restricted, it leads to double dipping and abuse."

Proponents of the first view tend to be those who favor a **service-based** retirement plan. Service-based retirement is not tied to age but to the number of years served. The philosophy is that once a public employee has reached a certain number of years of service, that employee should be able to retire regardless of how old the employee is. These plans may be funded based on the assumption that members will retire when they first become eligible, which may result in higher contribution rates. Average retirement ages for these kinds of plans will be slightly younger than for aged-based plans. Having retirees return to work without suspension of the pension benefit may not be considered objectionable because there is confidence that the retiree's pension has already been paid for.

Proponents of the second view tend to favor **age-based plans**. They prefer to avoid situations that involve the re-employment of public employees who have already retired, and often seek to retain workers in the system until they reach what is deemed to be an appropriate normal retirement age. Age-based plans tend to provide mechanisms for members to continue to accrue benefits for working more years and later in life. Such plans may even discourage or penalize those who seek to retire early. Proponents of the second view may seek to forbid post-retirement employment altogether unless the retirement benefit is suspended. Under the second view, if post-retirement employment is allowed, it may be restricted to part-time by imposing hour limits or earnings tests that trigger suspension of the retirement benefit.

A. Plan Design in PERS and TRS

There are significant differences in plan design between the TRS and PERS Plans 1 and the Plans 2/3. Generally speaking, the retirement provisions for the Plans 1 are more service-based, while the retirement provisions for the Plans 2/3 are more age-based.

Plan 1 retirees have a benefit formula that restricts benefit accruals after 30 years. Eligible Plan 1 retirees receive 2% of average final compensation (AFC) for each year of service credit to a maximum of 60% of AFC. There is less incentive for Plan 1 members to continue to work once they have reached thirty years of service. Furthermore, there are no early retirement provisions in TRS and PERS Plans 1, nor are there any reductions for retiring at earlier ages. Members are eligible for normal retirement at age 60 with five years of service, age 55 with 25 years of service, or at any age with 30 years of service. The plan design does not focus on or encourage working until age 65 and beyond.

Because retirement in the Plans 1 is more service-based, members tend to retire at earlier ages. Those who retire at earlier ages are more likely to seek opportunities to return to work. If they have already retired, they will prefer plan provisions that allow working **after** retirement, such as the post-retirement employment provisions that have been implemented for the Plans 1.

In contrast to the Plans 1, the Plans 2 have no cap on AFC. Members receive 2% of AFC for each year of service for as long as they continue to work. Thus a member who continues to work after qualifying for normal retirement will continue to accrue a significant increase in the monthly retirement benefit for working past age 65. In the Plans 2, members are eligible for normal retirement at age 65 with five years of service. The Plans 2 have provisions for early retirement, but the benefits are significantly reduced when members retire early. In summary, Plan 2 members are rewarded for working past age 65 by accruing additional benefits, while their benefits will be significantly reduced for retiring early. Plan provisions are aimed more at **retaining** older workers so they will retire later.

Similarly, in the defined benefit component of the Plans 3 there is no cap on the average final compensation. Eligible retirees receive 1% of AFC for each year of service, regardless of how long they work. Normal retirement is at age 65 with 10 years of service, and benefits are significantly reduced for retiring early. The vesting period is 5 years for those who complete 12 service credit months after attaining age 54. With respect to the defined contribution component, there is immediate vesting. Generally, under the Plans 3, members will accrue greater benefits by working until age 65 or longer.

B. *Legal/Technical Issues Arising in Connection with Post-Retirement Employment*

Policy makers who adopt post-retirement employment provisions for their plans that allow re-employed retirees to draw their retirement allowances while earning a salary and/or accruing additional benefits are faced with certain legal issues that arise in connection with the practice. They may also be challenged with public relations issues if there is any perception of potential or actual abuse.

1. Prohibition Against In-Service Distributions

A tax issue may arise in the context of retirees who return to work, especially those who return to the same position or to the same employer. Federal tax law prohibits qualified plans from distributing retirement income to members who are still “in service.” This rule is known as “prohibition against in-service distributions,” and is the genesis of the requirement that each employee have a bona fide termination of employment and actually retire prior to receiving a pension. Theoretically, a retirement plan can lose its qualified status under Section 401(a) of the Internal Revenue Code for violating this rule, resulting in significant tax liabilities for employers and employees.

The resolution of whether there is a true separation from service is to be based upon all the facts and circumstances in each individual case. There is no IRS guidance on what constitutes a sufficient “waiting period” between retirement and post-retirement employment. This is because the waiting period is only one of many facts relevant to the issue of whether the recipient of the retirement allowance has actually retired.

An employer and employee may violate the federal rule even when a statutory waiting period has been observed. For example, the employee may leave employment pursuant to a preexisting agreement that the employer will hire the employee back shortly after expiration of the waiting period. In such an instance, the rule would be violated. While a statutory waiting period can eliminate some compliance problems, it is not determinative of whether there has been a bona fide termination of employment.

DRS data for the last nine quarters shows that for both PERS 1 and TRS 1, roughly 70% of retirees are returning to work with the same employer. Thus, there is an increased possibility of violating this federal rule within the Plans 1. In Washington, only PERS 1 members are subject to a potential penalty for having a written or oral agreement that would negate a bona fide separation from service. Such an agreement could theoretically be prosecuted as a gross misdemeanor. As of the writing of this report, there does not appear to be any record of a successful prosecution under this provision.

Another approach to enforcement would be to adopt a model similar to that used by the California Public Employees' Retirement System (CalPERS). The CalPERS statute authorizes the retirement board to establish the criteria under which a bona fide separation from service is satisfied. If there is a failure to satisfy the criteria, the retired member is required to reimburse the retirement system for any retirement allowance received during the period of violation; pay the contributions that would have been required for the period, plus interest; and contribute toward reimbursement of the retirement system for administrative expenses incurred in responding to the violation, to the extent the member is determined to be at fault. Violations are handled as administrative, not criminal matters.

2. Inconsistencies in Statutory Framework

A technicality that creates inconsistencies in post-retirement employment practices has to do with membership eligibility. Generally, a retiree who becomes re-employed in an "eligible position" becomes subject to the post-retirement employment restrictions of that retirement system. Membership eligibility is a threshold determination, and in most cases, determining eligibility in the various retirement systems is a straightforward matter. When a person is working in a position that is membership-eligible, the person is reported by the employer to the Department of Retirement Systems. Pension benefits will be suspended when a retiree who is re-employed in an eligible position reaches the applicable hour limits.

Ineligible positions may include not only part time positions, but also certain full time public positions that are covered under another retirement system. Retirees may work as many hours as they want in this latter category without affecting their retirement allowances. For example, the **higher education institutions** are authorized by RCW 28B.10.400 to make separate retirement income plans available to their professional and academic employees instead of PERS or TRS. These institutions determine who is eligible to participate in their higher education retirement plans. An example is found in WAC 415-108-710, which provides that a PERS retiree may work after retirement and

continue to receive a retirement allowance if the member becomes an active member of a higher education retirement plan and is employed no sooner than one calendar month after the member's retirement benefit accrues.

This distinction may be seen by some as a legal "loophole." The practice was recently highlighted in the media as illustrated in the attached transcript entitled "Tripple dipping at UW," May 24, 2004, which may be found at www.king5.com (scroll down to Local News then King 5 Investigators). The story incorrectly attributed the retire-rehire activity at UW to "a 2001 state law."

The return-to-work legislation that was passed in 2001 did not create the ability for the employees identified in this media account to return to work without suspension of their retirement benefits. Instead, that ability is the result of the long-standing provisions in state law allowing higher education institutions to sponsor their own retirement plans and to promulgate their own rules determining who is eligible to participate in the plans. It is the statutory flexibility given to higher education plans that enables these re-employed retirees to begin accruing benefits in the higher education retirement plan while still receiving their pensions.

The operation of the estoppel statute further highlights this inconsistency with respect to post-retirement employment. **Estoppel** is an archaic term that simply means "stopped," "blocked" or "not allowed." It is derived from a doctrine of law that prevents a party from taking a certain action because it is not fair or just. Washington's retirement law includes a general estoppel rule related to post-retirement employment that was passed in 1976.

RCW 41.04.270 prohibits any member or former member from becoming a member or establishing any contractual rights in another public retirement system listed in RCW 41.50.030 (DRS-administered plans) or first class city systems if:

- the person is retired or eligible to retire (under normal, early and alternate early retirement provisions) from a public retirement system; or
- the person receives a disability allowance from a public retirement system.

The estoppel rule also provides that persons receiving a benefit or who are eligible to receive a benefit are not subject to the provisions of the statute if the person accumulated less than 15 years of service.

The higher education plan is not covered by this estoppel rule. The estoppel rule is found in the “General Provisions” of Chapter 41.04, RCW, and is not applicable to the higher education plan, which is found in Chapter 28B.10, RCW. By its terms, the estoppel rule is only applicable to DRS-administered plans and the city employee retirement systems of Seattle, Tacoma and Spokane. This means, for example, that a PERS 1 retiree who is rehired and becomes an active member of a higher education plan is not prohibited by the estoppel rule from earning additional benefits while drawing a PERS 1 retirement allowance.

3. Contractual Rights

A third area of legal concern to policy makers adopting post-retirement employment provisions into their retirement plans is the issue of vested or contractual rights. Expanding the opportunity to engage in post-retirement employment may be seen as an expanded benefit. As a general matter, once a new retirement benefit has been granted, it cannot be withdrawn without violating the principle set forth in Bakenhus v. City of Seattle, the Washington Supreme Court case that established pension provisions as an integral portion of the contemplated compensation set forth in the contract of employment.

The 2001 legislation that expanded the number of hours PERS and TRS Plan 1 retirees could work before having their benefits suspended included language to limit the affected employees’ ability to rely on the expansion as part of their

employment contract. The legislation included a “no contractual right” clause. This clause stated that the legislature reserved the right to amend or repeal the provision. The clause further provided that no member or beneficiary of PERS 1 has a contractual right to be employed more than five months in a calendar year without a reduction of his or her pension, and no TRS 1 member or beneficiary has a contractual right to be employed more than 525 hours per year without a reduction of his or her pension. The ability of the legislature to restrict employee reliance upon legislation expanding pension benefits by utilizing a “no contractual right” clause has not yet been tested in the Washington courts.

There are at least two approaches that may be used when lawmakers wish to provide a benefit that may be subsequently taken away. One is to use the “no contractual right” clause. The advantage is that employees are notified up front that they cannot rely on the newly created benefit. The disadvantages of this approach include legal uncertainty and a risk of litigation. In addition, by creating benefits with an uncertain legal status, there is the possibility of violating the federal tax rule requiring that benefits be “definitely determinable,” another plan qualification requirement of federal tax law.

An alternative approach is to create temporary pension rights, specifying a window of time within which the rights would be available and then expire. This approach has the advantage of being more certain, but a disadvantage is the need for the legislation to be amended or renewed over time. This approach also creates questions of equity, in that not all members have the opportunity to take advantage of the expanded benefit. Some members will fall within the window and some will not.

A recent U.S. Supreme Court case that was decided in June of this year is worthy of being mentioned, as it reiterates the point that currently accrued benefits must not be affected when post-retirement employment opportunities are expanded and then reduced. The case involved a private

plan rather than a public pension plan, and was decided under the “anti-cutback rule” of ERISA (Employee Retirement Income Security Act). ERISA is not applicable to governmental plans. The case is relevant, however, because ERISA cases may be used as persuasive authority in public pension cases when there is no public pension plan law that is directly on point. The anti-cutback rule is the private sector equivalent of Washington’s Bakenhus rule.

The case of Central Laborers’ Pension Fund v. Heinz, et al. involved a plan amendment that expanded the kinds of disqualifying employment that would trigger a suspension of benefit payments. In this case, the contested plan amendment was made subsequent to the early retirement of two participants. The court found that the retirees had justifiably relied on the terms of the plan at the time they retired, and that the subsequent plan amendment had effectively reduced their benefits. The Supreme Court cited as support Treasury regulations under Internal Revenue Code Section 411(d)(6) that flatly prohibit plans from attaching new limiting conditions to benefits that an employee has already earned.

C. Comparison with Other Retirement Systems

Many states have adopted a waiting period for post-retirement employment in order to minimize the possibility of making in-service distributions in violation of plan qualification guidelines. Ohio has a two-month waiting period, Colorado and Florida have a one-month waiting period, and Minnesota’s waiting period is 14 days. Not all retirement systems adopt a specific waiting period. For example, California PERS’ statute simply requires that there be a bona fide separation in service. A proposed administrative rule is pending that would require a 60-day waiting period.

The following table contains a more general description of post-retirement employment restrictions in other comparative retirement systems. Compared to the provisions in other states, Washington’s post-retirement employment rules are not atypical.

Rehire Provisions from Select Comparison Systems	
State / System	Post-Retirement Employment Restrictions
CalPERS	May work 960 hours; some positions without restriction
CalSTERS	May earn a maximum of \$25,740
Colorado PERA	May work 110 days or 720 hours; some positions without restriction
Florida (FRS)	May work 780 hours; some positions without restriction
Idaho PERSI	May work less than 20 hours/week or 5 consecutive months; less than one-half contract for teachers
Iowa PERS	Ages 55-65 may earn greater of \$30,000 or current SS limit; no limit after 65
Minnesota SRS	Under 65 may earn up to \$11,280 as indexed by SSA; no limit after 65.
Missouri (MOSERS)	May earn additional service credit but pension is suspended; some positions without restriction
Ohio PERS	Retiree becomes a contributing member; some positions are without restriction
Ohio STERS	Retiree becomes a contributing member and may receive contributions as a lump sum or an annuity
Oregon	May work 1,039 hours; no restriction for those over age 70; some positions without restriction
Seattle	May work 1,040 hours

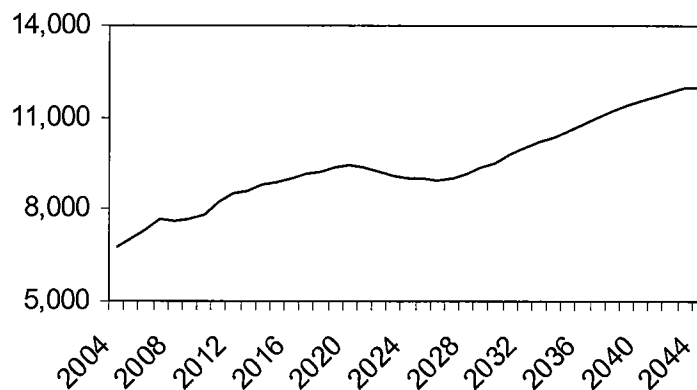
Within this comparison, some states allow retired members to return to work up to a maximum number of hours without having their pension suspended; others allow a member to earn a maximum dollar amount. Some allow members to return to work full time upon suspension of the retirement benefit, and contributions to the retirement system are required during the period of post-retirement employment. Some states have eliminated restrictions for older retirees. Most states have more liberal post-retirement employment provisions for teachers than for other public employees. In fact, according to National Council on Teacher Retirement, all 50 states allow some form of post-retirement employment for teachers.

D. Economic, Demographic and/or Social trends

Washington's 2001 legislation that expanded post-retirement employment opportunities was largely in response to a shortage of experienced teachers and other employees that were in high demand during the most expansive point in the last business cycle. The following discussion is intended to highlight some of the current trends that continue to create pressure on policy makers as they address the issue of post-retirement employment. This is not to suggest that policy makers must respond to such pressures, or that there is a right or wrong way to respond. The purpose of this section is simply to highlight some of the developments that continue to bring the issue of post-retirement employment to the forefront.

In the State of Washington, the total number of retirements for all public employee retirement systems is projected to steadily increase over the next forty years. The following chart shows the projected retirements from active status based on data from the 2002 Actuarial Valuation:

Figure 4
Projected Retirements, All Systems



This steady projection does not portend a massive looming labor shortage in the government workforce. However there is some concern that imminent baby boomer retirements will create a shortage of experienced workers.

The Washington Department of Personnel's Task Force on the Impact of Aging Trends on the Washington State Government Workforce (June 2000) found the following:

- The state will experience significantly higher turnover due to increasing retirement rates, with some agencies and job categories impacted to a much greater extent than others.
- In 18 agencies, including some of the state's largest, 15-29% of the PERS Plan 1 workforce will be eligible to retire by 2005.
- More than 50% of executive level and 30% of mid-level managers will be eligible to retire by 2005.
- Over 50% of the state workforce is in the 40-54 age group and at the mid-career stage or more.

The 2000 Task Force had several recommendations that are relevant to the issue of post-retirement employment and the relatively recent expansion of post-retirement employment opportunities in the State of Washington:

- Hire retirees as a source of experienced workers.
- Eliminate barriers to using retirees as part-time workers by reducing restrictions on post-retirement employment and/or allowing exceptions so that agencies can provide health care coverage as an incentive for retirees to work part-time.
- Explore options to help retain experienced workers, such as scheduling flexibility, telecommuting, assignment or career changes, leave options and downshifting.

Whether older workers retire and return to work, or whether they are given incentives to remain within the workforce, the trend in Washington and throughout the country is toward an aging workforce. Both public and private employers are concerned with sector shortages that may result from an increase in the retirement

rate for baby boomers, and are looking for ways to keep experienced workers involved. See Adequacy of Retirement Benefit Report to the SCPP, June 2004.

Employees are also indicating a desire to work longer. Among 2,001 workers between the ages of 50 and 70 recently polled by AARP, nearly 70% said they planned to continue working past the age of 65, and almost half said they envisioned working into their 70s or beyond. Pre-retirees cited various reasons for believing they will continue to work, including needing money (22%), needing health benefits (17%), staying mentally active (15%), being productive or useful (14%), and remaining physically active (9%).

The changing workforce is further reflected in changes to the federal Social Security law as of January 2000 that eliminated the Retirement Earnings Test for individuals age 65-69. (It remains in effect for those ages 62-64). This test had required that if seniors continued to work from age 65 to 70, their benefits were reduced \$1 for every \$3 earned above \$17,000. The withheld benefits were then returned, in general with interest, in the form of higher benefits after stopping work, or at age 70.

The test was not eliminated because older Americans aren't working. Rather, the law eliminating the test - the Senior Citizens' Freedom to Work Act of 2000 - was touted as "an important step toward preparing the economy for the demographic challenge of the baby boom." At that time there were 9.6 million people between the ages of 65 and 69, of which 3.0 million were working in Social Security covered employment. The number of people in that age group was projected to double to 20.3 million by the year 2030. National Economic Council, April 6, 2000.

Finally, a recent Watson Wyatt study of workers at or near retirement age indicated that a majority of survey participants would like to work fewer hours later in their careers, but less than half of them expect their employer to offer this opportunity. When asked how they would like to phase into retirement, many older workers said they hope to work part-time (63%) or work more flexible hours (48%) before retiring completely. Nearly 2/3 (63%) of current workers aged 50 and older indicated that they would like to phase into an entirely different career. Among those currently

participating in phased retirement, 80% work flexible hours and 79% work part-time. Two-thirds (67%) have less responsibility in their current job compared with their career job. See "Older Workers Would Delay Retirement if Employers Offered Phasing," Watson Wyatt Press Release, March 22, 2004.

E. *Challenges in Responding to Trends*

Most retirement experts agree that the aging workforce is a trend that is causing some to question how retirement plans and benefits programs are structured. The challenge for policy makers is to distinguish short-term cycles from long-term trends.

Public pension plans are designed and funded over multiple decades. Frequent changes in the benefit structure of public pension plans can contribute to contribution rate instability and inadequacy, as well as possible generational inequities in terms of taxpayer funding. Also, because of well-established legal principles recognizing the contractual nature of pension benefits, it is virtually impossible to take away benefits once they have been given. Even if benefit reductions are prospective and apply only to new hires, there is political difficulty in offering less to new employees than what has been previously offered.

Part of the philosophical debate surrounding post-retirement employment practices is whether retirement systems should be used as a tool in solving personnel issues. Proponents argue that retirement benefits are part of the total compensation package and should be used to address the needs of a changing workforce. Opponents argue that compensation issues should be addressed directly through salary increases, and retirement systems should be utilized only for retirement, i.e. providing security to employees who are no longer working.

F. Public Relations Issues

As one of the more controversial issues for public pension systems, “retire-rehire” has received considerable attention in the press. Washington is no exception. Washington’s expanded post-retirement employment opportunities have been the subject of analysis in Governing Magazine (July 2003). They have been highlighted in numerous newspaper articles and editorials, including those published by the Olympian (September 9, 2002 and August 1, 2004), Seattle Times (January 30, 2003 and February 1, 2002), the News Tribune (April 21, 2003), the Columbian (September 26, 2002), and the Daily of the University of Washington (May 7, 2004). They have also been the subject of a King5 Investigative Report (May 24, 2004, transcript attached). Managing public relations is another one of the many challenges for policy makers who tackle the controversial issue of post-retirement employment.

G. Conclusion to Policy Analysis

Retire/rehire provisions are used to attract retired workers back to the work force **after retirement**. They tend to be used with plans that have service-based retirement provisions as in the Plans 1 for TRS and PERS. Washington recently expanded opportunities for PERS and TRS Plan 1 retirees to return to work, and the State Actuary is monitoring the impacts of this legislation. Another category of tools is used to **retain** older workers who are still in the workforce. These types of provisions may involve increased benefit accruals for those working longer periods of years and later in life. Some of these kinds of provisions are already built into the Plans 2/3 of the Washington State Retirement Systems.

Executive Committee Recommendation

On September 7, 2004, the Executive Committee recommended that the attached bill draft be forwarded to the full committee for consideration. This draft was recommended by a subgroup headed by Representative Bill Fromhold. The subgroup considered five draft bills, and decided to recommend this version (“Draft E”) for consideration by the Executive Committee and full SCPP.

Bill (Draft)

The bill draft is attached. It adds the same general hiring qualifications to TRS 1 as currently exist for PERS 1 retirees who seek to work in excess of 867 hours annually. Those include a prohibition of any written or verbal agreement to return to work with the same employer. Under the legislation, a TRS 1 separation from service that is pursuant to such an agreement would be nullified and would constitute a potential misdemeanor violation of the statute entitled "Penalties for False Statements." Further, TRS 1 employers are subject to certain record-keeping requirements when they hire these retirees, including documentation of the need to hire the retirees and records of the actual hiring process. The language for these requirements largely tracks that of the existing PERS 1 statute.

The proposed draft also requires both PERS and TRS Plan 1 employers to hire retirees pursuant to a written policy. In the proposed legislation, the length of separation requirement (between retirement and re-employment) for working beyond 867 hours is specified for TRS 1 as 45 days (rather than the 90 days already in effect for PERS 1.) Also, this bill creates a new cumulative limit of 3165 hours worked over 867 for both plans (from no cumulative total limit in TRS 1 and from a 1900-hour cumulative total limit in PERS 1). The new cumulative limit starts anew as of the effective date of the bill, which is January 1, 2006. Finally, the contractual right to post-retirement employment in TRS 1 is expanded from 525 hours per year to 867 hours.

Fiscal Note (Draft)

The draft fiscal note is attached.

Administrative Impacts

The Department of Retirement System (DRS) was asked to comment on potential administrative impacts of the proposed legislation on September 17, 2004. Comments were given by telephone on September 27, 2004:

- This bill will create new tracking requirements for the Teachers' Retirement System Plan 1.
- The bill is not expected to generate a significant administrative impact, and it will achieve some consistency between TRS 1 and PERS 1.
- There will be a significant communications impact in that the changes will need to be communicated to affected members.

1 AN ACT Relating to the public employment of retirees from the
2 teachers' retirement system and the public employees' retirement
3 system; amending RCW 41.32.010, 41.32.055, 41.32.570, 41.40.010,
4 41.40.010, and 41.40.037; reenacting and amending RCW 41.40.037;
5 prescribing penalties; providing effective dates; and providing an
6 expiration date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read
9 as follows:

10 As used in this chapter, unless a different meaning is plainly
11 required by the context:

12 (1) (a) "Accumulated contributions" for plan 1 members, means the
13 sum of all regular annuity contributions and, except for the purpose of
14 withdrawal at the time of retirement, any amount paid under RCW
15 41.50.165(2) with regular interest thereon.

16 (b) "Accumulated contributions" for plan 2 members, means the sum
17 of all contributions standing to the credit of a member in the member's
18 individual account, including any amount paid under RCW 41.50.165(2),
19 together with the regular interest thereon.

1 (2) "Actuarial equivalent" means a benefit of equal value when
2 computed upon the basis of such mortality tables and regulations as
3 shall be adopted by the director and regular interest.

4 (3) "Annuity" means the moneys payable per year during life by
5 reason of accumulated contributions of a member.

6 (4) "Member reserve" means the fund in which all of the accumulated
7 contributions of members are held.

8 (5)(a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance or other benefit provided by this
10 chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
12 in receipt of a retirement allowance or other benefit provided by this
13 chapter resulting from service rendered to an employer by another
14 person.

15 (6) "Contract" means any agreement for service and compensation
16 between a member and an employer.

17 (7) "Creditable service" means membership service plus prior
18 service for which credit is allowable. This subsection shall apply
19 only to plan 1 members.

20 (8) "Dependent" means receiving one-half or more of support from a
21 member.

22 (9) "Disability allowance" means monthly payments during
23 disability. This subsection shall apply only to plan 1 members.

24 (10)(a) "Earnable compensation" for plan 1 members, means:

25 (i) All salaries and wages paid by an employer to an employee
26 member of the retirement system for personal services rendered during
27 a fiscal year. In all cases where compensation includes maintenance
28 the employer shall fix the value of that part of the compensation not
29 paid in money.

30 (ii) For an employee member of the retirement system teaching in an
31 extended school year program, two consecutive extended school years, as
32 defined by the employer school district, may be used as the annual
33 period for determining earnable compensation in lieu of the two fiscal
34 years.

35 (iii) "Earnable compensation" for plan 1 members also includes the
36 following actual or imputed payments, which are not paid for personal
37 services:

1 (A) Retroactive payments to an individual by an employer on
2 reinstatement of the employee in a position, or payments by an employer
3 to an individual in lieu of reinstatement in a position which are
4 awarded or granted as the equivalent of the salary or wages which the
5 individual would have earned during a payroll period shall be
6 considered earnable compensation and the individual shall receive the
7 equivalent service credit.

8 (B) If a leave of absence, without pay, is taken by a member for
9 the purpose of serving as a member of the state legislature, and such
10 member has served in the legislature five or more years, the salary
11 which would have been received for the position from which the leave of
12 absence was taken shall be considered as compensation earnable if the
13 employee's contribution thereon is paid by the employee. In addition,
14 where a member has been a member of the state legislature for five or
15 more years, earnable compensation for the member's two highest
16 compensated consecutive years of service shall include a sum not to
17 exceed thirty-six hundred dollars for each of such two consecutive
18 years, regardless of whether or not legislative service was rendered
19 during those two years.

20 (iv) For members employed less than full time under written
21 contract with a school district, or community college district, in an
22 instructional position, for which the member receives service credit of
23 less than one year in all of the years used to determine the earnable
24 compensation used for computing benefits due under RCW 41.32.497,
25 41.32.498, and 41.32.520, the member may elect to have earnable
26 compensation defined as provided in RCW 41.32.345. For the purposes of
27 this subsection, the term "instructional position" means a position in
28 which more than seventy-five percent of the member's time is spent as
29 a classroom instructor (including office hours), a librarian, or a
30 counselor. Earnable compensation shall be so defined only for the
31 purpose of the calculation of retirement benefits and only as necessary
32 to insure that members who receive fractional service credit under RCW
33 41.32.270 receive benefits proportional to those received by members
34 who have received full-time service credit.

35 (v) "Earnable compensation" does not include:

36 (A) Remuneration for unused sick leave authorized under RCW
37 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

1 (14) "Local fund" means any of the local retirement funds for
2 teachers operated in any school district in accordance with the
3 provisions of chapter 163, Laws of 1917 as amended.

4 (15) "Member" means any teacher included in the membership of the
5 retirement system. Also, any other employee of the public schools who,
6 on July 1, 1947, had not elected to be exempt from membership and who,
7 prior to that date, had by an authorized payroll deduction, contributed
8 to the member reserve.

9 (16) "Membership service" means service rendered subsequent to the
10 first day of eligibility of a person to membership in the retirement
11 system: PROVIDED, That where a member is employed by two or more
12 employers the individual shall receive no more than one service credit
13 month during any calendar month in which multiple service is rendered.
14 The provisions of this subsection shall apply only to plan 1 members.

15 (17) "Pension" means the moneys payable per year during life from
16 the pension reserve.

17 (18) "Pension reserve" is a fund in which shall be accumulated an
18 actuarial reserve adequate to meet present and future pension
19 liabilities of the system and from which all pension obligations are to
20 be paid.

21 (19) "Prior service" means service rendered prior to the first date
22 of eligibility to membership in the retirement system for which credit
23 is allowable. The provisions of this subsection shall apply only to
24 plan 1 members.

25 (20) "Prior service contributions" means contributions made by a
26 member to secure credit for prior service. The provisions of this
27 subsection shall apply only to plan 1 members.

28 (21) "Public school" means any institution or activity operated by
29 the state of Washington or any instrumentality or political subdivision
30 thereof employing teachers, except the University of Washington and
31 Washington State University.

32 (22) "Regular contributions" means the amounts required to be
33 deducted from the compensation of a member and credited to the member's
34 individual account in the member reserve. This subsection shall apply
35 only to plan 1 members.

36 (23) "Regular interest" means such rate as the director may
37 determine.

1 (24) (a) "Retirement allowance" for plan 1 members, means monthly
2 payments based on the sum of annuity and pension, or any optional
3 benefits payable in lieu thereof.

4 (b) "Retirement allowance" for plan 2 and plan 3 members, means
5 monthly payments to a retiree or beneficiary as provided in this
6 chapter.

7 (25) "Retirement system" means the Washington state teachers'
8 retirement system.

9 (26) (a) "Service" for plan 1 members means the time during which a
10 member has been employed by an employer for compensation.

11 (i) If a member is employed by two or more employers the individual
12 shall receive no more than one service credit month during any calendar
13 month in which multiple service is rendered.

14 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
15 sick leave may be creditable as service solely for the purpose of
16 determining eligibility to retire under RCW 41.32.470.

17 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
18 state retirement system that covers teachers in public schools may be
19 applied solely for the purpose of determining eligibility to retire
20 under RCW 41.32.470.

21 (b) "Service" for plan 2 and plan 3 members, means periods of
22 employment by a member for one or more employers for which earnable
23 compensation is earned subject to the following conditions:

24 (i) A member employed in an eligible position or as a substitute
25 shall receive one service credit month for each month of September
26 through August of the following year if he or she earns earnable
27 compensation for eight hundred ten or more hours during that period and
28 is employed during nine of those months, except that a member may not
29 receive credit for any period prior to the member's employment in an
30 eligible position except as provided in RCW 41.32.812 and 41.50.132;

31 (ii) If a member is employed either in an eligible position or as
32 a substitute teacher for nine months of the twelve month period between
33 September through August of the following year but earns earnable
34 compensation for less than eight hundred ten hours but for at least six
35 hundred thirty hours, he or she will receive one-half of a service
36 credit month for each month of the twelve month period;

37 (iii) All other members in an eligible position or as a substitute
38 teacher shall receive service credit as follows:

1 (A) A service credit month is earned in those calendar months where
2 earnable compensation is earned for ninety or more hours;

3 (B) A half-service credit month is earned in those calendar months
4 where earnable compensation is earned for at least seventy hours but
5 less than ninety hours; and

6 (C) A quarter-service credit month is earned in those calendar
7 months where earnable compensation is earned for less than seventy
8 hours.

9 (iv) Any person who is a member of the teachers' retirement system
10 and who is elected or appointed to a state elective position may
11 continue to be a member of the retirement system and continue to
12 receive a service credit month for each of the months in a state
13 elective position by making the required member contributions.

14 (v) When an individual is employed by two or more employers the
15 individual shall only receive one month's service credit during any
16 calendar month in which multiple service for ninety or more hours is
17 rendered.

18 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
19 sick leave may be creditable as service solely for the purpose of
20 determining eligibility to retire under RCW 41.32.470. For purposes of
21 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
22 to two service credit months. Use of less than forty-five days of sick
23 leave is creditable as allowed under this subsection as follows:

24 (A) Less than eleven days equals one-quarter service credit month;

25 (B) Eleven or more days but less than twenty-two days equals one-
26 half service credit month;

27 (C) Twenty-two days equals one service credit month;

28 (D) More than twenty-two days but less than thirty-three days
29 equals one and one-quarter service credit month;

30 (E) Thirty-three or more days but less than forty-five days equals
31 one and one-half service credit month.

32 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
33 state retirement system that covers teachers in public schools may be
34 applied solely for the purpose of determining eligibility to retire
35 under RCW 41.32.470.

36 (viii) The department shall adopt rules implementing this
37 subsection.

1 (27) "Service credit year" means an accumulation of months of
2 service credit which is equal to one when divided by twelve.

3 (28) "Service credit month" means a full service credit month or an
4 accumulation of partial service credit months that are equal to one.

5 (29) "Teacher" means any person qualified to teach who is engaged
6 by a public school in an instructional, administrative, or supervisory
7 capacity. The term includes state, educational service district, and
8 school district superintendents and their assistants and all employees
9 certificated by the superintendent of public instruction; and in
10 addition thereto any full time school doctor who is employed by a
11 public school and renders service of an instructional or educational
12 nature.

13 (30) "Average final compensation" for plan 2 and plan 3 members,
14 means the member's average earnable compensation of the highest
15 consecutive sixty service credit months prior to such member's
16 retirement, termination, or death. Periods constituting authorized
17 leaves of absence may not be used in the calculation of average final
18 compensation except under RCW 41.32.810(2).

19 (31) "Retiree" means any person who has begun accruing a retirement
20 allowance or other benefit provided by this chapter resulting from
21 service rendered to an employer while a member.

22 (32) "Department" means the department of retirement systems
23 created in chapter 41.50 RCW.

24 (33) "Director" means the director of the department.

25 (34) "State elective position" means any position held by any
26 person elected or appointed to statewide office or elected or appointed
27 as a member of the legislature.

28 (35) "State actuary" or "actuary" means the person appointed
29 pursuant to RCW 44.44.010(2).

30 (36) "Substitute teacher" means:

31 (a) A teacher who is hired by an employer to work as a temporary
32 teacher, except for teachers who are annual contract employees of an
33 employer and are guaranteed a minimum number of hours; or

34 (b) Teachers who either (i) work in ineligible positions for more
35 than one employer or (ii) work in an ineligible position or positions
36 together with an eligible position.

37 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,

1 through September 1, 1991, means a position which normally requires two
2 or more uninterrupted months of creditable service during September
3 through August of the following year.

4 (b) "Eligible position" for plan 2 and plan 3 on and after
5 September 1, 1991, means a position that, as defined by the employer,
6 normally requires five or more months of at least seventy hours of
7 earnable compensation during September through August of the following
8 year.

9 (c) For purposes of this chapter an employer shall not define
10 "position" in such a manner that an employee's monthly work for that
11 employer is divided into more than one position.

12 (d) The elected position of the superintendent of public
13 instruction is an eligible position.

14 (38) "Plan 1" means the teachers' retirement system, plan 1
15 providing the benefits and funding provisions covering persons who
16 first became members of the system prior to October 1, 1977.

17 (39) "Plan 2" means the teachers' retirement system, plan 2
18 providing the benefits and funding provisions covering persons who
19 first became members of the system on and after October 1, 1977, and
20 prior to July 1, 1996.

21 (40) "Plan 3" means the teachers' retirement system, plan 3
22 providing the benefits and funding provisions covering persons who
23 first become members of the system on and after July 1, 1996, or who
24 transfer under RCW 41.32.817.

25 (41) "Index" means, for any calendar year, that year's annual
26 average consumer price index, Seattle, Washington area, for urban wage
27 earners and clerical workers, all items compiled by the bureau of labor
28 statistics, United States department of labor.

29 (42) "Index A" means the index for the year prior to the
30 determination of a postretirement adjustment.

31 (43) "Index B" means the index for the year prior to index A.

32 (44) "Index year" means the earliest calendar year in which the
33 index is more than sixty percent of index A.

34 (45) "Adjustment ratio" means the value of index A divided by index
35 B.

36 (46) "Annual increase" means, initially, fifty-nine cents per month
37 per year of service which amount shall be increased each July 1st by
38 three percent, rounded to the nearest cent.

1 (47) "Member account" or "member's account" for purposes of plan 3
2 means the sum of the contributions and earnings on behalf of the member
3 in the defined contribution portion of plan 3.

4 (48) "Separation from service or employment" occurs when a person
5 has terminated all employment with an employer. Separation from
6 service or employment does not occur, and if claimed by an employer or
7 employee may be a violation of RCW 41.32.055, when an employee and
8 employer have a written or oral agreement to resume employment with the
9 same employer following termination. Mere expressions or inquiries
10 about postretirement employment by an employer or employee that do not
11 constitute a commitment to reemploy the employee after retirement are
12 not an agreement under this subsection.

13 (49) "Employed" or "employee" means a person who is providing
14 services for compensation to an employer, unless the person is free
15 from the employer's direction and control over the performance of work.
16 The department shall adopt rules and interpret this subsection
17 consistent with common law.

18 **Sec. 2.** RCW 41.32.055 and 2003 c 53 s 218 are each amended to read
19 as follows:

20 (1) Any person who shall knowingly make false statements or shall
21 falsify or permit to be falsified any record or records of the
22 retirement system, except under subsection (2) of this section, in any
23 attempt to defraud such system as a result of such act, is guilty of a
24 class B felony punishable according to chapter 9A.20 RCW.

25 (2) Any person who shall knowingly make false statements or shall
26 falsify or permit to be falsified any record or records of the
27 retirement systems related to a member's separation from service and
28 qualification for a retirement allowance under RCW 41.32.480 in any
29 attempt to defraud such system as a result of such act, is guilty of a
30 gross misdemeanor.

31 **Sec. 3.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read
32 as follows:

33 (1) (a) If a retiree enters employment with an employer sooner than
34 one calendar month after his or her accrual date, the retiree's monthly
35 retirement allowance will be reduced by five and one-half percent for

1 every seven hours worked during that month. This reduction will be
2 applied each month until the retiree remains absent from employment
3 with an employer for one full calendar month.

4 (b) The benefit reduction provided in (a) of this subsection will
5 accrue for a maximum of one hundred forty hours per month. Any monthly
6 benefit reduction over one hundred percent will be applied to the
7 benefit the retiree is eligible to receive in subsequent months.

8 (2) Except under subsection (3) of this section, any retired
9 teacher or retired administrator who enters service in any public
10 educational institution in Washington state ((and who has satisfied the
11 break in employment requirement of subsection (1) of this section)) at
12 least one calendar month after his or her accrual date shall cease to
13 receive pension payments while engaged in such service, after the
14 retiree has rendered service for more than ((one thousand five
15 hundred)) eight hundred sixty-seven hours in a school year.

16 (3) Any retired teacher or retired administrator who enters service
17 in any public educational institution in Washington state one and one-
18 half calendar months or more after his or her accrual date and:

19 (a) Is hired pursuant to a written policy into a position for which
20 the school board has documented a justifiable need to hire a retiree
21 into the position;

22 (b) Is hired through the established process for the position with
23 the approval of the school board or other highest decision-making
24 authority of the prospective employer;

25 (c) The employer retains records of the procedures followed and the
26 decisions made in hiring the retired teacher or retired administrator
27 and provides those records in the event of an audit; and

28 (d) The employee has not already rendered a cumulative total of
29 more than three thousand one hundred sixty-five hours of service while
30 receiving pension payments beyond an annual threshold of eight hundred
31 sixty-seven hours;

32 shall cease to receive pension payments while engaged in that service
33 after the retiree has rendered service for more than one thousand five
34 hundred hours in a school year. The cumulative total limitations under
35 this subsection apply prospectively after the effective date of this
36 act.

37 (4) When a retired teacher or administrator renders service beyond

1 eight hundred sixty-seven hours, the department shall collect from the
2 employer the applicable employer retirement contributions for the
3 entire duration of the member's employment during that fiscal year.

4 ~~((+3+))~~ (5) The department shall collect and provide the state
5 actuary with information relevant to the use of this section for the
6 select committee on pension policy.

7 ~~((+4+))~~ (6) The legislature reserves the right to amend or repeal
8 this section in the future and no member or beneficiary has a
9 contractual right to be employed for more than ~~((five hundred twenty-~~
10 ~~five))~~ eight hundred sixty-seven hours per year without a reduction of
11 his or her pension.

12 **Sec. 4.** RCW 41.40.010 and 2003 c 412 s 4 are each amended to read
13 as follows:

14 As used in this chapter, unless a different meaning is plainly
15 required by the context:

16 (1) "Retirement system" means the public employees' retirement
17 system provided for in this chapter.

18 (2) "Department" means the department of retirement systems created
19 in chapter 41.50 RCW.

20 (3) "State treasurer" means the treasurer of the state of
21 Washington.

22 (4) (a) "Employer" for plan 1 members, means every branch,
23 department, agency, commission, board, and office of the state, any
24 political subdivision or association of political subdivisions of the
25 state admitted into the retirement system, and legal entities
26 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
27 term shall also include any labor guild, association, or organization
28 the membership of a local lodge or division of which is comprised of at
29 least forty percent employees of an employer (other than such labor
30 guild, association, or organization) within this chapter. The term may
31 also include any city of the first class that has its own retirement
32 system.

33 (b) "Employer" for plan 2 and plan 3 members, means every branch,
34 department, agency, commission, board, and office of the state, and any
35 political subdivision and municipal corporation of the state admitted
36 into the retirement system, including public agencies created pursuant

1 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
2 31, 2000, school districts and educational service districts will no
3 longer be employers for the public employees' retirement system plan 2.

4 (5) "Member" means any employee included in the membership of the
5 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
6 does not prohibit a person otherwise eligible for membership in the
7 retirement system from establishing such membership effective when he
8 or she first entered an eligible position.

9 (6) "Original member" of this retirement system means:

10 (a) Any person who became a member of the system prior to April 1,
11 1949;

12 (b) Any person who becomes a member through the admission of an
13 employer into the retirement system on and after April 1, 1949, and
14 prior to April 1, 1951;

15 (c) Any person who first becomes a member by securing employment
16 with an employer prior to April 1, 1951, provided the member has
17 rendered at least one or more years of service to any employer prior to
18 October 1, 1947;

19 (d) Any person who first becomes a member through the admission of
20 an employer into the retirement system on or after April 1, 1951,
21 provided, such person has been in the regular employ of the employer
22 for at least six months of the twelve-month period preceding the said
23 admission date;

24 (e) Any member who has restored all contributions that may have
25 been withdrawn as provided by RCW 41.40.150 and who on the effective
26 date of the individual's retirement becomes entitled to be credited
27 with ten years or more of membership service except that the provisions
28 relating to the minimum amount of retirement allowance for the member
29 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
30 apply to the member;

31 (f) Any member who has been a contributor under the system for two
32 or more years and who has restored all contributions that may have been
33 withdrawn as provided by RCW 41.40.150 and who on the effective date of
34 the individual's retirement has rendered five or more years of service
35 for the state or any political subdivision prior to the time of the
36 admission of the employer into the system; except that the provisions
37 relating to the minimum amount of retirement allowance for the member

1 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
2 apply to the member.

3 (7) "New member" means a person who becomes a member on or after
4 April 1, 1949, except as otherwise provided in this section.

5 (8) (a) "Compensation earnable" for plan 1 members, means salaries
6 or wages earned during a payroll period for personal services and where
7 the compensation is not all paid in money, maintenance compensation
8 shall be included upon the basis of the schedules established by the
9 member's employer.

10 (i) "Compensation earnable" for plan 1 members also includes the
11 following actual or imputed payments, which are not paid for personal
12 services:

13 (A) Retroactive payments to an individual by an employer on
14 reinstatement of the employee in a position, or payments by an employer
15 to an individual in lieu of reinstatement in a position which are
16 awarded or granted as the equivalent of the salary or wage which the
17 individual would have earned during a payroll period shall be
18 considered compensation earnable and the individual shall receive the
19 equivalent service credit;

20 (B) If a leave of absence is taken by an individual for the purpose
21 of serving in the state legislature, the salary which would have been
22 received for the position from which the leave of absence was taken,
23 shall be considered as compensation earnable if the employee's
24 contribution is paid by the employee and the employer's contribution is
25 paid by the employer or employee;

26 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
27 72.09.240;

28 (D) Compensation that a member would have received but for a
29 disability occurring in the line of duty only as authorized by RCW
30 41.40.038;

31 (E) Compensation that a member receives due to participation in the
32 leave sharing program only as authorized by RCW 41.04.650 through
33 41.04.670; and

34 (F) Compensation that a member receives for being in standby
35 status. For the purposes of this section, a member is in standby
36 status when not being paid for time actually worked and the employer
37 requires the member to be prepared to report immediately for work, if
38 the need arises, although the need may not arise.

1 (ii) "Compensation earnable" does not include:

2 (A) Remuneration for unused sick leave authorized under RCW
3 41.04.340, 28A.400.210, or 28A.310.490;

4 (B) Remuneration for unused annual leave in excess of thirty days
5 as authorized by RCW 43.01.044 and 43.01.041.

6 (b) "Compensation earnable" for plan 2 and plan 3 members, means
7 salaries or wages earned by a member during a payroll period for
8 personal services, including overtime payments, and shall include wages
9 and salaries deferred under provisions established pursuant to sections
10 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
11 shall exclude nonmoney maintenance compensation and lump sum or other
12 payments for deferred annual sick leave, unused accumulated vacation,
13 unused accumulated annual leave, or any form of severance pay.

14 "Compensation earnable" for plan 2 and plan 3 members also includes
15 the following actual or imputed payments, which are not paid for
16 personal services:

17 (i) Retroactive payments to an individual by an employer on
18 reinstatement of the employee in a position, or payments by an employer
19 to an individual in lieu of reinstatement in a position which are
20 awarded or granted as the equivalent of the salary or wage which the
21 individual would have earned during a payroll period shall be
22 considered compensation earnable to the extent provided above, and the
23 individual shall receive the equivalent service credit;

24 (ii) In any year in which a member serves in the legislature, the
25 member shall have the option of having such member's compensation
26 earnable be the greater of:

27 (A) The compensation earnable the member would have received had
28 such member not served in the legislature; or

29 (B) Such member's actual compensation earnable received for
30 nonlegislative public employment and legislative service combined. Any
31 additional contributions to the retirement system required because
32 compensation earnable under (b)(ii)(A) of this subsection is greater
33 than compensation earnable under (b)(ii)(B) of this subsection shall be
34 paid by the member for both member and employer contributions;

35 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
36 and 72.09.240;

37 (iv) Compensation that a member would have received but for a

1 disability occurring in the line of duty only as authorized by RCW.
2 41.40.038;

3 (v) Compensation that a member receives due to participation in the
4 leave sharing program only as authorized by RCW 41.04.650 through
5 41.04.670; and

6 (vi) Compensation that a member receives for being in standby
7 status. For the purposes of this section, a member is in standby
8 status when not being paid for time actually worked and the employer
9 requires the member to be prepared to report immediately for work, if
10 the need arises, although the need may not arise.

11 (9)(a) "Service" for plan 1 members, except as provided in RCW
12 41.40.088, means periods of employment in an eligible position or
13 positions for one or more employers rendered to any employer for which
14 compensation is paid, and includes time spent in office as an elected
15 or appointed official of an employer. Compensation earnable earned in
16 full time work for seventy hours or more in any given calendar month
17 shall constitute one service credit month except as provided in RCW
18 41.40.088. Compensation earnable earned for less than seventy hours in
19 any calendar month shall constitute one-quarter service credit month of
20 service except as provided in RCW 41.40.088. Only service credit
21 months and one-quarter service credit months shall be counted in the
22 computation of any retirement allowance or other benefit provided for
23 in this chapter. Any fraction of a year of service shall be taken into
24 account in the computation of such retirement allowance or benefits.
25 Time spent in standby status, whether compensated or not, is not
26 service.

27 (i) Service by a state employee officially assigned by the state on
28 a temporary basis to assist another public agency, shall be considered
29 as service as a state employee: PROVIDED, That service to any other
30 public agency shall not be considered service as a state employee if
31 such service has been used to establish benefits in any other public
32 retirement system.

33 (ii) An individual shall receive no more than a total of twelve
34 service credit months of service during any calendar year. If an
35 individual is employed in an eligible position by one or more employers
36 the individual shall receive no more than one service credit month
37 during any calendar month in which multiple service for seventy or more
38 hours is rendered.

1 (iii) A school district employee may count up to forty-five days of
2 sick leave as creditable service solely for the purpose of determining
3 eligibility to retire under RCW 41.40.180 as authorized by RCW
4 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
5 28A.400.300 is equal to two service credit months. Use of less than
6 forty-five days of sick leave is creditable as allowed under this
7 subsection as follows:

8 (A) Less than twenty-two days equals one-quarter service credit
9 month;

10 (B) Twenty-two days equals one service credit month;

11 (C) More than twenty-two days but less than forty-five days equals
12 one and one-quarter service credit month.

13 (b) "Service" for plan 2 and plan 3 members, means periods of
14 employment by a member in an eligible position or positions for one or
15 more employers for which compensation earnable is paid. Compensation
16 earnable earned for ninety or more hours in any calendar month shall
17 constitute one service credit month except as provided in RCW
18 41.40.088. Compensation earnable earned for at least seventy hours but
19 less than ninety hours in any calendar month shall constitute one-half
20 service credit month of service. Compensation earnable earned for less
21 than seventy hours in any calendar month shall constitute one-quarter
22 service credit month of service. Time spent in standby status, whether
23 compensated or not, is not service.

24 Any fraction of a year of service shall be taken into account in
25 the computation of such retirement allowance or benefits.

26 (i) Service in any state elective position shall be deemed to be
27 full time service, except that persons serving in state elective
28 positions who are members of the Washington school employees'
29 retirement system, teachers' retirement system, or law enforcement
30 officers' and fire fighters' retirement system at the time of election
31 or appointment to such position may elect to continue membership in the
32 Washington school employees' retirement system, teachers' retirement
33 system, or law enforcement officers' and fire fighters' retirement
34 system.

35 (ii) A member shall receive a total of not more than twelve service
36 credit months of service for such calendar year. If an individual is
37 employed in an eligible position by one or more employers the

1 individual shall receive no more than one service credit month during
2 any calendar month in which multiple service for ninety or more hours
3 is rendered.

4 (iii) Up to forty-five days of sick leave may be creditable as
5 service solely for the purpose of determining eligibility to retire
6 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
7 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
8 to two service credit months. Use of less than forty-five days of sick
9 leave is creditable as allowed under this subsection as follows:

10 (A) Less than eleven days equals one-quarter service credit month;

11 (B) Eleven or more days but less than twenty-two days equals one-
12 half service credit month;

13 (C) Twenty-two days equals one service credit month;

14 (D) More than twenty-two days but less than thirty-three days
15 equals one and one-quarter service credit month;

16 (E) Thirty-three or more days but less than forty-five days equals
17 one and one-half service credit month.

18 (10) "Service credit year" means an accumulation of months of
19 service credit which is equal to one when divided by twelve.

20 (11) "Service credit month" means a month or an accumulation of
21 months of service credit which is equal to one.

22 (12) "Prior service" means all service of an original member
23 rendered to any employer prior to October 1, 1947.

24 (13) "Membership service" means:

25 (a) All service rendered, as a member, after October 1, 1947;

26 (b) All service after October 1, 1947, to any employer prior to the
27 time of its admission into the retirement system for which member and
28 employer contributions, plus interest as required by RCW 41.50.125,
29 have been paid under RCW 41.40.056 or 41.40.057;

30 (c) Service not to exceed six consecutive months of probationary
31 service rendered after April 1, 1949, and prior to becoming a member,
32 in the case of any member, upon payment in full by such member of the
33 total amount of the employer's contribution to the retirement fund
34 which would have been required under the law in effect when such
35 probationary service was rendered if the member had been a member
36 during such period, except that the amount of the employer's
37 contribution shall be calculated by the director based on the first
38 month's compensation earnable as a member;

1 (d) Service not to exceed six consecutive months of probationary
2 service, rendered after October 1, 1947, and before April 1, 1949, and
3 prior to becoming a member, in the case of any member, upon payment in
4 full by such member of five percent of such member's salary during said
5 period of probationary service, except that the amount of the
6 employer's contribution shall be calculated by the director based on
7 the first month's compensation earnable as a member.

8 (14) (a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance, pension or other benefit provided by
10 this chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
12 in receipt of a retirement allowance or other benefit provided by this
13 chapter resulting from service rendered to an employer by another
14 person.

15 (15) "Regular interest" means such rate as the director may
16 determine.

17 (16) "Accumulated contributions" means the sum of all contributions
18 standing to the credit of a member in the member's individual account,
19 including any amount paid under RCW 41.50.165(2), together with the
20 regular interest thereon.

21 (17) (a) "Average final compensation" for plan 1 members, means the
22 annual average of the greatest compensation earnable by a member during
23 any consecutive two year period of service credit months for which
24 service credit is allowed; or if the member has less than two years of
25 service credit months then the annual average compensation earnable
26 during the total years of service for which service credit is allowed.

27 (b) "Average final compensation" for plan 2 and plan 3 members,
28 means the member's average compensation earnable of the highest
29 consecutive sixty months of service credit months prior to such
30 member's retirement, termination, or death. Periods constituting
31 authorized leaves of absence may not be used in the calculation of
32 average final compensation except under RCW 41.40.710(2).

33 (18) "Final compensation" means the annual rate of compensation
34 earnable by a member at the time of termination of employment.

35 (19) "Annuity" means payments for life derived from accumulated
36 contributions of a member. All annuities shall be paid in monthly
37 installments.

1 (20) "Pension" means payments for life derived from contributions
2 made by the employer. All pensions shall be paid in monthly
3 installments.

4 (21) "Retirement allowance" means the sum of the annuity and the
5 pension.

6 (22) "Employee" or "employed" means a person who is providing
7 services for compensation to an employer, unless the person is free
8 from the employer's direction and control over the performance of work.
9 The department shall adopt rules and interpret this subsection
10 consistent with common law.

11 (23) "Actuarial equivalent" means a benefit of equal value when
12 computed upon the basis of such mortality and other tables as may be
13 adopted by the director.

14 (24) "Retirement" means withdrawal from active service with a
15 retirement allowance as provided by this chapter.

16 (25) "Eligible position" means:

17 (a) Any position that, as defined by the employer, normally
18 requires five or more months of service a year for which regular
19 compensation for at least seventy hours is earned by the occupant
20 thereof. For purposes of this chapter an employer shall not define
21 "position" in such a manner that an employee's monthly work for that
22 employer is divided into more than one position;

23 (b) Any position occupied by an elected official or person
24 appointed directly by the governor, or appointed by the chief justice
25 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
26 compensation is paid.

27 (26) "Ineligible position" means any position which does not
28 conform with the requirements set forth in subsection (25) of this
29 section.

30 (27) "Leave of absence" means the period of time a member is
31 authorized by the employer to be absent from service without being
32 separated from membership.

33 (28) "Totally incapacitated for duty" means total inability to
34 perform the duties of a member's employment or office or any other work
35 for which the member is qualified by training or experience.

36 (29) "Retiree" means any person who has begun accruing a retirement
37 allowance or other benefit provided by this chapter resulting from
38 service rendered to an employer while a member.

1 (30) "Director" means the director of the department.

2 (31) "State elective position" means any position held by any
3 person elected or appointed to statewide office or elected or appointed
4 as a member of the legislature.

5 (32) "State actuary" or "actuary" means the person appointed
6 pursuant to RCW 44.44.010(2).

7 (33) "Plan 1" means the public employees' retirement system, plan
8 1 providing the benefits and funding provisions covering persons who
9 first became members of the system prior to October 1, 1977.

10 (34) "Plan 2" means the public employees' retirement system, plan
11 2 providing the benefits and funding provisions covering persons who
12 first became members of the system on and after October 1, 1977, and
13 are not included in plan 3.

14 (35) "Plan 3" means the public employees' retirement system, plan
15 3 providing the benefits and funding provisions covering persons who:

16 (a) First become a member on or after:

17 (i) March 1, 2002, and are employed by a state agency or institute
18 of higher education and who did not choose to enter plan 2; or

19 (ii) September 1, 2002, and are employed by other than a state
20 agency or institute of higher education and who did not choose to enter
21 plan 2; or

22 (b) Transferred to plan 3 under RCW 41.40.795.

23 (36) "Index" means, for any calendar year, that year's annual
24 average consumer price index, Seattle, Washington area, for urban wage
25 earners and clerical workers, all items, compiled by the bureau of
26 labor statistics, United States department of labor.

27 (37) "Index A" means the index for the year prior to the
28 determination of a postretirement adjustment.

29 (38) "Index B" means the index for the year prior to index A.

30 (39) "Index year" means the earliest calendar year in which the
31 index is more than sixty percent of index A.

32 (40) "Adjustment ratio" means the value of index A divided by index
33 B.

34 (41) "Annual increase" means, initially, fifty-nine cents per month
35 per year of service which amount shall be increased each July 1st by
36 three percent, rounded to the nearest cent.

37 (42) "Separation from service" occurs when a person has terminated
38 all employment with an employer. Separation from service or employment

1 does not occur, and if claimed by an employer or employee may be a
2 violation of RCW 41.40.055, when an employee and employer have a
3 written or oral agreement to resume employment with the same employer
4 following termination. Mere expressions or inquiries about
5 postretirement employment by an employer or employee that do not
6 constitute a commitment to reemploy the employee after retirement are
7 not an agreement under this subsection.

8 (43) "Member account" or "member's account" for purposes of plan 3
9 means the sum of the contributions and earnings on behalf of the member
10 in the defined contribution portion of plan 3.

11 **Sec. 5.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to read
12 as follows:

13 As used in this chapter, unless a different meaning is plainly
14 required by the context:

15 (1) "Retirement system" means the public employees' retirement
16 system provided for in this chapter.

17 (2) "Department" means the department of retirement systems created
18 in chapter 41.50 RCW.

19 (3) "State treasurer" means the treasurer of the state of
20 Washington.

21 (4) (a) "Employer" for plan 1 members, means every branch,
22 department, agency, commission, board, and office of the state, any
23 political subdivision or association of political subdivisions of the
24 state admitted into the retirement system, and legal entities
25 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
26 term shall also include any labor guild, association, or organization
27 the membership of a local lodge or division of which is comprised of at
28 least forty percent employees of an employer (other than such labor
29 guild, association, or organization) within this chapter. The term may
30 also include any city of the first class that has its own retirement
31 system.

32 (b) "Employer" for plan 2 and plan 3 members, means every branch,
33 department, agency, commission, board, and office of the state, and any
34 political subdivision and municipal corporation of the state admitted
35 into the retirement system, including public agencies created pursuant
36 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August

1 31, 2000, school districts and educational service districts will no
2 longer be employers for the public employees' retirement system plan 2.

3 (5) "Member" means any employee included in the membership of the
4 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
5 does not prohibit a person otherwise eligible for membership in the
6 retirement system from establishing such membership effective when he
7 or she first entered an eligible position.

8 (6) "Original member" of this retirement system means:

9 (a) Any person who became a member of the system prior to April 1,
10 1949;

11 (b) Any person who becomes a member through the admission of an
12 employer into the retirement system on and after April 1, 1949, and
13 prior to April 1, 1951;

14 (c) Any person who first becomes a member by securing employment
15 with an employer prior to April 1, 1951, provided the member has
16 rendered at least one or more years of service to any employer prior to
17 October 1, 1947;

18 (d) Any person who first becomes a member through the admission of
19 an employer into the retirement system on or after April 1, 1951,
20 provided, such person has been in the regular employ of the employer
21 for at least six months of the twelve-month period preceding the said
22 admission date;

23 (e) Any member who has restored all contributions that may have
24 been withdrawn as provided by RCW 41.40.150 and who on the effective
25 date of the individual's retirement becomes entitled to be credited
26 with ten years or more of membership service except that the provisions
27 relating to the minimum amount of retirement allowance for the member
28 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
29 apply to the member;

30 (f) Any member who has been a contributor under the system for two
31 or more years and who has restored all contributions that may have been
32 withdrawn as provided by RCW 41.40.150 and who on the effective date of
33 the individual's retirement has rendered five or more years of service
34 for the state or any political subdivision prior to the time of the
35 admission of the employer into the system; except that the provisions
36 relating to the minimum amount of retirement allowance for the member
37 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
38 apply to the member.

1 (7) "New member" means a person who becomes a member on or after.
2 April 1, 1949, except as otherwise provided in this section.

3 (8) (a) "Compensation earnable" for plan 1 members, means salaries
4 or wages earned during a payroll period for personal services and where
5 the compensation is not all paid in money, maintenance compensation
6 shall be included upon the basis of the schedules established by the
7 member's employer.

8 (i) "Compensation earnable" for plan 1 members also includes the
9 following actual or imputed payments, which are not paid for personal
10 services:

11 (A) Retroactive payments to an individual by an employer on
12 reinstatement of the employee in a position, or payments by an employer
13 to an individual in lieu of reinstatement in a position which are
14 awarded or granted as the equivalent of the salary or wage which the
15 individual would have earned during a payroll period shall be
16 considered compensation earnable and the individual shall receive the
17 equivalent service credit;

18 (B) If a leave of absence is taken by an individual for the purpose
19 of serving in the state legislature, the salary which would have been
20 received for the position from which the leave of absence was taken,
21 shall be considered as compensation earnable if the employee's
22 contribution is paid by the employee and the employer's contribution is
23 paid by the employer or employee;

24 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
25 72.09.240;

26 (D) Compensation that a member would have received but for a
27 disability occurring in the line of duty only as authorized by RCW
28 41.40.038;

29 (E) Compensation that a member receives due to participation in the
30 leave sharing program only as authorized by RCW 41.04.650 through
31 41.04.670; and

32 (F) Compensation that a member receives for being in standby
33 status. For the purposes of this section, a member is in standby
34 status when not being paid for time actually worked and the employer
35 requires the member to be prepared to report immediately for work, if
36 the need arises, although the need may not arise.

37 (ii) "Compensation earnable" does not include:

1 (A) Remuneration for unused sick leave authorized under RCW
2 41.04.340, 28A.400.210, or 28A.310.490;

3 (B) Remuneration for unused annual leave in excess of thirty days
4 as authorized by RCW 43.01.044 and 43.01.041.

5 (b) "Compensation earnable" for plan 2 and plan 3 members, means
6 salaries or wages earned by a member during a payroll period for
7 personal services, including overtime payments, and shall include wages
8 and salaries deferred under provisions established pursuant to sections
9 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
10 shall exclude nonmoney maintenance compensation and lump sum or other
11 payments for deferred annual sick leave, unused accumulated vacation,
12 unused accumulated annual leave, or any form of severance pay.

13 "Compensation earnable" for plan 2 and plan 3 members also includes
14 the following actual or imputed payments, which are not paid for
15 personal services:

16 (i) Retroactive payments to an individual by an employer on
17 reinstatement of the employee in a position, or payments by an employer
18 to an individual in lieu of reinstatement in a position which are
19 awarded or granted as the equivalent of the salary or wage which the
20 individual would have earned during a payroll period shall be
21 considered compensation earnable to the extent provided above, and the
22 individual shall receive the equivalent service credit;

23 (ii) In any year in which a member serves in the legislature, the
24 member shall have the option of having such member's compensation
25 earnable be the greater of:

26 (A) The compensation earnable the member would have received had
27 such member not served in the legislature; or

28 (B) Such member's actual compensation earnable received for
29 nonlegislative public employment and legislative service combined. Any
30 additional contributions to the retirement system required because
31 compensation earnable under (b)(ii)(A) of this subsection is greater
32 than compensation earnable under (b)(ii)(B) of this subsection shall be
33 paid by the member for both member and employer contributions;

34 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
35 and 72.09.240;

36 (iv) Compensation that a member would have received but for a
37 disability occurring in the line of duty only as authorized by RCW
38 41.40.038;

1 (v) Compensation that a member receives due to participation in the
2 leave sharing program only as authorized by RCW 41.04.650 through
3 41.04.670; and

4 (vi) Compensation that a member receives for being in standby
5 status. For the purposes of this section, a member is in standby
6 status when not being paid for time actually worked and the employer
7 requires the member to be prepared to report immediately for work, if
8 the need arises, although the need may not arise.

9 (9)(a) "Service" for plan 1 members, except as provided in RCW
10 41.40.088, means periods of employment in an eligible position or
11 positions for one or more employers rendered to any employer for which
12 compensation is paid, and includes time spent in office as an elected
13 or appointed official of an employer. Compensation earnable earned in
14 full time work for seventy hours or more in any given calendar month
15 shall constitute one service credit month except as provided in RCW
16 41.40.088. Compensation earnable earned for less than seventy hours in
17 any calendar month shall constitute one-quarter service credit month of
18 service except as provided in RCW 41.40.088. Only service credit
19 months and one-quarter service credit months shall be counted in the
20 computation of any retirement allowance or other benefit provided for
21 in this chapter. Any fraction of a year of service shall be taken into
22 account in the computation of such retirement allowance or benefits.
23 Time spent in standby status, whether compensated or not, is not
24 service.

25 (i) Service by a state employee officially assigned by the state on
26 a temporary basis to assist another public agency, shall be considered
27 as service as a state employee: PROVIDED, That service to any other
28 public agency shall not be considered service as a state employee if
29 such service has been used to establish benefits in any other public
30 retirement system.

31 (ii) An individual shall receive no more than a total of twelve
32 service credit months of service during any calendar year. If an
33 individual is employed in an eligible position by one or more employers
34 the individual shall receive no more than one service credit month
35 during any calendar month in which multiple service for seventy or more
36 hours is rendered.

37 (iii) A school district employee may count up to forty-five days of
38 sick leave as creditable service solely for the purpose of determining

1 eligibility to retire under RCW 41.40.180 as authorized by RCW
2 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
3 28A.400.300 is equal to two service credit months. Use of less than
4 forty-five days of sick leave is creditable as allowed under this
5 subsection as follows:

6 (A) Less than twenty-two days equals one-quarter service credit
7 month;

8 (B) Twenty-two days equals one service credit month;

9 (C) More than twenty-two days but less than forty-five days equals
10 one and one-quarter service credit month.

11 (b) "Service" for plan 2 and plan 3 members, means periods of
12 employment by a member in an eligible position or positions for one or
13 more employers for which compensation earnable is paid. Compensation
14 earnable earned for ninety or more hours in any calendar month shall
15 constitute one service credit month except as provided in RCW
16 41.40.088. Compensation earnable earned for at least seventy hours but
17 less than ninety hours in any calendar month shall constitute one-half
18 service credit month of service. Compensation earnable earned for less
19 than seventy hours in any calendar month shall constitute one-quarter
20 service credit month of service. Time spent in standby status, whether
21 compensated or not, is not service.

22 Any fraction of a year of service shall be taken into account in
23 the computation of such retirement allowance or benefits.

24 (i) Service in any state elective position shall be deemed to be
25 full time service, except that persons serving in state elective
26 positions who are members of the Washington school employees'
27 retirement system, teachers' retirement system, public safety
28 employees' retirement system, or law enforcement officers' and fire
29 fighters' retirement system at the time of election or appointment to
30 such position may elect to continue membership in the Washington school
31 employees' retirement system, teachers' retirement system, public
32 safety employees' retirement system, or law enforcement officers' and
33 fire fighters' retirement system.

34 (ii) A member shall receive a total of not more than twelve service
35 credit months of service for such calendar year. If an individual is
36 employed in an eligible position by one or more employers the
37 individual shall receive no more than one service credit month during

1 any calendar month in which multiple service for ninety or more hours.
2 is rendered.

3 (iii) Up to forty-five days of sick leave may be creditable as
4 service solely for the purpose of determining eligibility to retire
5 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
6 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
7 to two service credit months. Use of less than forty-five days of sick
8 leave is creditable as allowed under this subsection as follows:

9 (A) Less than eleven days equals one-quarter service credit month;

10 (B) Eleven or more days but less than twenty-two days equals one-
11 half service credit month;

12 (C) Twenty-two days equals one service credit month;

13 (D) More than twenty-two days but less than thirty-three days
14 equals one and one-quarter service credit month;

15 (E) Thirty-three or more days but less than forty-five days equals
16 one and one-half service credit month.

17 (10) "Service credit year" means an accumulation of months of
18 service credit which is equal to one when divided by twelve.

19 (11) "Service credit month" means a month or an accumulation of
20 months of service credit which is equal to one.

21 (12) "Prior service" means all service of an original member
22 rendered to any employer prior to October 1, 1947.

23 (13) "Membership service" means:

24 (a) All service rendered, as a member, after October 1, 1947;

25 (b) All service after October 1, 1947, to any employer prior to the
26 time of its admission into the retirement system for which member and
27 employer contributions, plus interest as required by RCW 41.50.125,
28 have been paid under RCW 41.40.056 or 41.40.057;

29 (c) Service not to exceed six consecutive months of probationary
30 service rendered after April 1, 1949, and prior to becoming a member,
31 in the case of any member, upon payment in full by such member of the
32 total amount of the employer's contribution to the retirement fund
33 which would have been required under the law in effect when such
34 probationary service was rendered if the member had been a member
35 during such period, except that the amount of the employer's
36 contribution shall be calculated by the director based on the first
37 month's compensation earnable as a member;

1 (d) Service not to exceed six consecutive months of probationary
2 service, rendered after October 1, 1947, and before April 1, 1949, and
3 prior to becoming a member, in the case of any member, upon payment in
4 full by such member of five percent of such member's salary during said
5 period of probationary service, except that the amount of the
6 employer's contribution shall be calculated by the director based on
7 the first month's compensation earnable as a member.

8 (14) (a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance, pension or other benefit provided by
10 this chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
12 in receipt of a retirement allowance or other benefit provided by this
13 chapter resulting from service rendered to an employer by another
14 person.

15 (15) "Regular interest" means such rate as the director may
16 determine.

17 (16) "Accumulated contributions" means the sum of all contributions
18 standing to the credit of a member in the member's individual account,
19 including any amount paid under RCW 41.50.165(2), together with the
20 regular interest thereon.

21 (17) (a) "Average final compensation" for plan 1 members, means the
22 annual average of the greatest compensation earnable by a member during
23 any consecutive two year period of service credit months for which
24 service credit is allowed; or if the member has less than two years of
25 service credit months then the annual average compensation earnable
26 during the total years of service for which service credit is allowed.

27 (b) "Average final compensation" for plan 2 and plan 3 members,
28 means the member's average compensation earnable of the highest
29 consecutive sixty months of service credit months prior to such
30 member's retirement, termination, or death. Periods constituting
31 authorized leaves of absence may not be used in the calculation of
32 average final compensation except under RCW 41.40.710(2).

33 (18) "Final compensation" means the annual rate of compensation
34 earnable by a member at the time of termination of employment.

35 (19) "Annuity" means payments for life derived from accumulated
36 contributions of a member. All annuities shall be paid in monthly
37 installments.

1 (20) "Pension" means payments for life derived from contributions.
2 made by the employer. All pensions shall be paid in monthly
3 installments.

4 (21) "Retirement allowance" means the sum of the annuity and the
5 pension.

6 (22) "Employee" or "employed" means a person who is providing
7 services for compensation to an employer, unless the person is free
8 from the employer's direction and control over the performance of work.
9 The department shall adopt rules and interpret this subsection
10 consistent with common law.

11 (23) "Actuarial equivalent" means a benefit of equal value when
12 computed upon the basis of such mortality and other tables as may be
13 adopted by the director.

14 (24) "Retirement" means withdrawal from active service with a
15 retirement allowance as provided by this chapter.

16 (25) "Eligible position" means:

17 (a) Any position that, as defined by the employer, normally
18 requires five or more months of service a year for which regular
19 compensation for at least seventy hours is earned by the occupant
20 thereof. For purposes of this chapter an employer shall not define
21 "position" in such a manner that an employee's monthly work for that
22 employer is divided into more than one position;

23 (b) Any position occupied by an elected official or person
24 appointed directly by the governor, or appointed by the chief justice
25 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
26 compensation is paid.

27 (26) "Ineligible position" means any position which does not
28 conform with the requirements set forth in subsection (25) of this
29 section.

30 (27) "Leave of absence" means the period of time a member is
31 authorized by the employer to be absent from service without being
32 separated from membership.

33 (28) "Totally incapacitated for duty" means total inability to
34 perform the duties of a member's employment or office or any other work
35 for which the member is qualified by training or experience.

36 (29) "Retiree" means any person who has begun accruing a retirement
37 allowance or other benefit provided by this chapter resulting from
38 service rendered to an employer while a member.

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan 1" means the public employees' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and are not included in plan 3.

(35) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(36) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(37) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(38) "Index B" means the index for the year prior to index A.

(39) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(40) "Adjustment ratio" means the value of index A divided by index B.

(41) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(42) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment

1 does not occur, and if claimed by an employer or employee may be a
2 violation of RCW 41.40.055, when an employee and employer have a
3 written or oral agreement to resume employment with the same employer
4 following termination. Mere expressions or inquiries about
5 postretirement employment by an employer or employee that do not
6 constitute a commitment to reemploy the employee after retirement are
7 not an agreement under this subsection.

8 (43) "Member account" or "member's account" for purposes of plan 3
9 means the sum of the contributions and earnings on behalf of the member
10 in the defined contribution portion of plan 3.

11 **Sec. 6.** RCW 41.40.037 and 2003 c 412 s 5 and 2003 c 295 s 7 are
12 each reenacted and amended to read as follows:

13 (1) (a) If a retiree enters employment with an employer sooner than
14 one calendar month after his or her accrual date, the retiree's monthly
15 retirement allowance will be reduced by five and one-half percent for
16 every eight hours worked during that month. This reduction will be
17 applied each month until the retiree remains absent from employment
18 with an employer for one full calendar month.

19 (b) The benefit reduction provided in (a) of this subsection will
20 accrue for a maximum of one hundred sixty hours per month. Any benefit
21 reduction over one hundred percent will be applied to the benefit the
22 retiree is eligible to receive in subsequent months.

23 (2) (a) Except as provided in (b) of this subsection, a retiree from
24 plan 1 who enters employment with an employer at least one calendar
25 month after his or her accrual date may continue to receive pension
26 payments while engaged in such service for up to eight hundred sixty-
27 seven hours of service in a calendar year without a reduction of
28 pension.

29 (b) A retiree from plan 1 who enters employment with an employer at
30 least three calendar months after his or her accrual date and:

31 (i) Is hired pursuant to a written policy into a position for which
32 the employer has documented a justifiable need to hire a retiree into
33 the position;

34 (ii) Is hired through the established process for the position with
35 the approval of: A school board for a school district; the chief
36 executive officer of a state agency employer; the secretary of the
37 senate for the senate; the chief clerk of the house of representatives

1 for the house of representatives; the secretary of the senate and the
2 chief clerk of the house of representatives jointly for the joint
3 legislative audit and review committee, the legislative transportation
4 committee, the joint committee on pension policy, the legislative
5 evaluation and accountability program, the legislative systems
6 committee, and the statute law committee; or according to rules adopted
7 for the rehiring of retired plan 1 members for a local government
8 employer;

9 (iii) The employer retains records of the procedures followed and
10 decisions made in hiring the retiree, and provides those records in the
11 event of an audit; and

12 (iv) The employee has not already rendered a cumulative total of
13 more than ~~((one thousand nine hundred))~~ three thousand one hundred
14 sixty-five hours of service while in receipt of pension payments beyond
15 an annual threshold of eight hundred sixty-seven hours;
16 shall cease to receive pension payments while engaged in that service
17 after the retiree has rendered service for more than one thousand five
18 hundred hours in a calendar year. The ~~((one thousand nine hundred~~
19 ~~hour))~~ cumulative total limitations under this subsection ~~((applies))~~
20 apply prospectively ~~((to those retiring after July 27, 2003, and~~
21 ~~retroactively to those who retired prior to July 27, 2003, and shall be~~
22 ~~calculated from the date of retirement))~~ after the effective date of
23 this act. Hours beyond the annual threshold of eight hundred sixty-
24 seven that have already been accrued by reemployed retirees prior to
25 the effective date of this act shall not count toward the three
26 thousand one hundred sixty-five hour cumulative total.

27 (c) When a plan 1 member renders service beyond eight hundred
28 sixty-seven hours, the department shall collect from the employer the
29 applicable employer retirement contributions for the entire duration of
30 the member's employment during that calendar year.

31 (d) A retiree from plan 2 or plan 3 who has satisfied the break in
32 employment requirement of subsection (1) of this section may work up to
33 eight hundred sixty-seven hours in a calendar year in an eligible
34 position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as
35 a fire fighter or law enforcement officer, as defined in RCW 41.26.030,
36 without suspension of his or her benefit.

37 (3) If the retiree opts to reestablish membership under RCW
38 41.40.023(12), he or she terminates his or her retirement status and

1 becomes a member. Retirement benefits shall not accrue during the.
2 period of membership and the individual shall make contributions and
3 receive membership credit. Such a member shall have the right to again
4 retire if eligible in accordance with RCW 41.40.180. However, if the
5 right to retire is exercised to become effective before the member has
6 rendered two uninterrupted years of service, the retirement formula and
7 survivor options the member had at the time of the member's previous
8 retirement shall be reinstated.

9 (4) The department shall collect and provide the state actuary with
10 information relevant to the use of this section for the select
11 committee on pension policy.

12 (5) The legislature reserves the right to amend or repeal this
13 section in the future and no member or beneficiary has a contractual
14 right to be employed for more than five months in a calendar year
15 without a reduction of his or her pension.

16 **Sec. 7.** RCW 41.40.037 and 2004 c 242 s 63 are each amended to read
17 as follows:

18 (1) (a) If a retiree enters employment with an employer sooner than
19 one calendar month after his or her accrual date, the retiree's monthly
20 retirement allowance will be reduced by five and one-half percent for
21 every eight hours worked during that month. This reduction will be
22 applied each month until the retiree remains absent from employment
23 with an employer for one full calendar month.

24 (b) The benefit reduction provided in (a) of this subsection will
25 accrue for a maximum of one hundred sixty hours per month. Any benefit
26 reduction over one hundred percent will be applied to the benefit the
27 retiree is eligible to receive in subsequent months.

28 (2) (a) Except as provided in (b) of this subsection, a retiree from
29 plan 1 who enters employment with an employer at least one calendar
30 month after his or her accrual date may continue to receive pension
31 payments while engaged in such service for up to eight hundred sixty-
32 seven hours of service in a calendar year without a reduction of
33 pension.

34 (b) A retiree from plan 1 who enters employment with an employer at
35 least three calendar months after his or her accrual date and:

36 (i) Is hired into a position for which the employer has documented
37 a justifiable need to hire a retiree into the position;

1 (ii) Is hired through the established process for the position with
2 the approval of: A school board for a school district; the chief
3 executive officer of a state agency employer; the secretary of the
4 senate for the senate; the chief clerk of the house of representatives
5 for the house of representatives; the secretary of the senate and the
6 chief clerk of the house of representatives jointly for the joint
7 legislative audit and review committee, the legislative transportation
8 committee, the joint committee on pension policy, the legislative
9 evaluation and accountability program, the legislative systems
10 committee, and the statute law committee; or according to rules adopted
11 for the rehiring of retired plan 1 members for a local government
12 employer;

13 (iii) The employer retains records of the procedures followed and
14 decisions made in hiring the retiree, and provides those records in the
15 event of an audit; and

16 (iv) The employee has not already rendered a cumulative total of
17 more than ~~((one thousand nine hundred))~~ three thousand one hundred
18 sixty-five hours of service while in receipt of pension payments beyond
19 an annual threshold of eight hundred sixty-seven hours;
20 shall cease to receive pension payments while engaged in that service
21 after the retiree has rendered service for more than one thousand five
22 hundred hours in a calendar year. The ~~((one thousand nine hundred~~
23 ~~hour))~~ cumulative total limitations under this subsection ~~((applies))~~
24 apply prospectively ~~((to those retiring after July 27, 2003, and~~
25 ~~retroactively to those who retired prior to July 27, 2003, and shall be~~
26 ~~calculated from the date of retirement))~~ after the effective date of
27 this act. Hours beyond the annual threshold of eight hundred sixty-
28 seven that have already been accrued by reemployed retirees prior to
29 the effective date of this act shall not count toward the three
30 thousand one hundred sixty-five hour cumulative total.

31 (c) When a plan 1 member renders service beyond eight hundred
32 sixty-seven hours, the department shall collect from the employer the
33 applicable employer retirement contributions for the entire duration of
34 the member's employment during that calendar year.

35 (d) A retiree from plan 2 or plan 3 who has satisfied the break in
36 employment requirement of subsection (1) of this section may work up to
37 eight hundred sixty-seven hours in a calendar year in an eligible

1 position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or
2 41.40.010, or as a fire fighter or law enforcement officer, as defined
3 in RCW 41.26.030, without suspension of his or her benefit.

4 (3) If the retiree opts to reestablish membership under RCW
5 41.40.023(12), he or she terminates his or her retirement status and
6 becomes a member. Retirement benefits shall not accrue during the
7 period of membership and the individual shall make contributions and
8 receive membership credit. Such a member shall have the right to again
9 retire if eligible in accordance with RCW 41.40.180. However, if the
10 right to retire is exercised to become effective before the member has
11 rendered two uninterrupted years of service, the retirement formula and
12 survivor options the member had at the time of the member's previous
13 retirement shall be reinstated.

14 (4) The department shall collect and provide the state actuary with
15 information relevant to the use of this section for the select
16 committee on pension policy.

17 (5) The legislature reserves the right to amend or repeal this
18 section in the future and no member or beneficiary has a contractual
19 right to be employed for more than five months in a calendar year
20 without a reduction of his or her pension.

21 NEW SECTION. **Sec. 8.** Sections 1 through 4 and 6 of this act take
22 effect January 1, 2006.

23 NEW SECTION. **Sec. 9.** Sections 5 and 7 of this act take effect
24 July 1, 2006.

25 NEW SECTION. **Sec. 10.** Sections 4 and 6 of this act expire July 1,
26 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	10/5/04	Z-0157/05 / Z-0141/05

SUMMARY OF BILL:

This bill impacts the Teachers' Retirement System (TRS) Plan 1 and the Public Employees' Retirement System (PERS) Plan 1. It adds the same general hiring qualifications to TRS 1 as currently exist for PERS 1 retirees who seek to work in excess of 867 hours annually. Those include a prohibition of any written or verbal agreement to return to work with the same employer. Under the legislation, a TRS 1 separation from service that is pursuant to such an agreement would be nullified and would constitute a potential misdemeanor violation of the statute entitled "Penalties for False Statements." Further, TRS 1 employers are subject to certain record-keeping requirements when they hire these retirees, including documentation of the need to hire the retirees and records of the actual hiring process. The language for these requirements largely tracks that of the existing PERS 1 statute.

The proposed draft also requires both PERS and TRS Plan 1 employers to hire retirees pursuant to a written policy. In the proposed legislation, the length of separation requirement (between retirement and re-employment) for working beyond 867 hours is specified for TRS 1 as 45 days (rather than the 90 days already in effect for PERS 1.) Also, this bill creates a new cumulative limit of 3165 hours worked over 867 for both plans (from no cumulative total limit in TRS 1 and from a 1900-hour cumulative total limit in PERS 1). The new cumulative limit starts anew as of the effective date of the bill, which is January 1, 2006. Finally, the contractual right to post-retirement employment in TRS 1 is expanded from 525 hours per year to 867 hours.

Effective Date: January 1, 2006.

CURRENT SITUATION:

Generally, all retired members of PERS and TRS have a **waiting period** before they may return to employment. In most instances, the waiting period is thirty (30) days. If retirees return to work prior to completion of the waiting period, their benefits are effectively suspended due to mandatory reductions in the benefit amounts (5.5% for every eight hours worked during that month to a maximum of 160 hours in PERS, and 5.5% for every seven hours worked during the month to a maximum of 140 hours in TRS).

The PERS and TRS systems allow retirees to return to employment, but there are limits on the number of hours that may be worked without suspension of retirement benefits. The **hour limits** start over with each new calendar year and vary among the plans. For the Plans 1, retirees may work up to a limit of 1,500 hours without suspension of their pension benefits, however they are subject to limits on their **contractual** rights to return to work of 5 months in PERS 1 and 525 hours in TRS 1.

PERS 1 retirees are subject to more specific rules affecting waiting periods and hour limits. Those seeking to return to work for 1,500 hours are subject to a 90-day waiting period. Also, these employees are subject to a 1900-hour cumulative or "lifetime" limit on the number of hours that may be worked beyond 867 hours annually. Once the 1,900 hour limit is reached, PERS 1 retirees may work up to 867 hours in subsequent calendar years before their benefits are suspended. PERS 1 retirees are also subject to an amended definition of "separation from service" so that any written or verbal agreement to return to work with the same employer nullifies the separation and creates a potential violation of the statute entitled "Penalties for False Statements," RCW 41.40.55. Further, employers are subject to certain record-keeping requirements when they hire these retirees to work for 1,500 hours, including documentation of the need to hire the retirees and records of the actual hiring process.

FISCAL IMPACT:

The fiscal impact of this proposal to the affected retirement systems is indeterminate. During the 2003 interim, the Select Committee on Pension Policy studied this issue and recommended that a proposal to charge individual employers for the cost of the expansion of the post-retirement employment provisions be deferred until further data and study is available. Further data and study is not available at this time. Therefore, the cost of the original legislation and any modifications to that legislation is indeterminate at this time.

October 4, 2004

Chair, Select Committee on Pension Policy

Subject: The Rehire Waiting Period Provision of the draft RCW 41.32.570

The purpose of this letter is to provide input concerning the revision of RCW 41.32.570. Further refinement of the waiting period provision by the SCPP is suggested as presented below.

Revised language (see subsection (3) of version "E" of the draft legislation) has provided an exception (one and one-half months) will ensure that retiring teachers that complete their employment contract prior to June 30 will have access to being rehired for the next full school year without penalty. However, the provision still excludes the retiring teachers that can not complete their employment contract prior to June 30. Their accrual date is August 1; and therefore, they would have to accept the 5.5 % per day penalty if employed prior to August 30. It should be noted that most school districts require work days in August in preparation for the start of the school year.

Consideration should be given to including provisions in the recommended legislation that will statutorily allow all retiring teachers to have equal access to the full year rehired process.

Inserting language within subsection (1) & (3), as indicated below, would do this.

Add a new subsection (1)(b) that reads: (1)(b) The one calendar month waiting period specified in subsection (1)(a) of this section may be reduced to one half of a calendar month if the retiring teacher has completed all contracted service in the school year in which retirement occurs.

(3) Any retired administrator who enters service in any public educational institution in Washington state one and one-half calendar months or more after his or her accrual date; or any teacher who enters similar service one-half of a month after the accrual date, and:
(a) Is hired pursuant to a written policy ...

The teacher who is required to complete the school year in July because of contracted service should have the same access to the rehired process as does the retiring TRS 1 teacher who completes contracted service in June. The trade off is that the one half month waiting period would apply to all retiring teachers, but not administrators, and the one half month period would not apply unless the teacher completes the school year.

This is a fairness and equality policy issue. If a provision can be made to accommodate some retiring TRS 1 teachers, than the provision should ensure that all of the TRS 1 teachers who complete their employment contract are also included.

Thank you for taking the time to review this matter which deserves current attention by the SCPP.



Bobby J Woolley

October 1, 2004

Members, Select Committee on Pension Policy

Subject: Revision of RCW 41.32.570

The purpose of this letter is to provide written testimony to the SCPP concerning revision of RCW 41.32.570. The issue is the clarification of the term school year. The original language that was adopted in 2001 utilized the term school year to describe the period to which the 1500-hour limitation applies. Version "E" of the 2004 draft legislation (that is being currently considered) continues to use the term school year in reference to the 1500-hour provision.

DRS currently considers that this reference to school year is meant to mean the same twelve-month period as its fiscal year. The result is that WAC 415-112-541, which implements RCW 41.32.570, applies the 1500-hour limitation on the basis of DRS's fiscal year, not the State's school year. This confusion arises because the school year is not defined in WAC 41.32.010 (Definitions), nor in WAC 41.32.570 or the current draft legislation.

It should be further noted that DRS is currently in the process of revising WAC 415-112-541. In doing so, the Department has proposed language that continues to apply the 1500-hour limitation provision on the basis of its fiscal year. This DRS perspective ignores the specific statutory language. Certainly clarifying legislative intent as to the correct twelve-month period is merited; and should not be overlooked during the current SCPP considerations.

It is suggested that clarification should be provided in the SCPP's recommended revision of RCW 41.32.570. This can be done by adding a clarifying reference to the statutory definition of school year as contained in RCW 28A.150.040. This same format has also been utilized in RCW 41.32.013 to describe the school year as an annual period. The following wording could be inserted into the draft rehire legislation as indicated below.

See Draft Version "E", Section 3, RCW 41.32.570 (2003 C295 s 6),
next to last line of subsection (3)(d):

... "after the retiree has rendered service for more
than one thousand five hundred hours in a school year,
as defined in RCW 28A.150.040. The cumulative total" ...

I will be available to provide additional information during the verbal testimony during the SCPP's October 19, 2004 meeting. Thank you for reviewing and acting on this request.



Bobby J Woolley

Select Committee on Pension Policy

Executive Committee Membership

(October 12, 2004)

Issue

The issue addressed in this report is whether a retiree representative should be added to the Executive Committee of the Select Committee on Pension Policy (SCPP).

Staff

Laura C. Harper, Senior Research Analyst/Legal
360-586-7616

Current Situation

The composition of the Executive Committee is governed by statute. RCW 41.04.276(4) requires the SCPP to establish an Executive Committee of five members, including:

1. the chairperson (a Senator in even-numbered years and a member of the House in odd-numbered years);
2. the vice-chairperson (a member of the House in even-numbered years and a Senator in odd-numbered years);
3. one active member or representative from an organization of active members of the state retirement systems;
4. one employer representative or member of the state retirement systems; and
5. one member from the directors of the department of retirement systems and office of financial management, serving in alternate years.

History

The original legislation creating the SCPP and requiring the establishment of an Executive Committee was passed in 2003, and has not been amended since that time.

Analysis

The SCPP consists of twenty members coming from six categories of membership: (1) four members of the senate, (2) four members of the house, (3) four active members, (4) two retired members, (5) four employer members and (6) the directors of the department of retirement systems and office of financial management.

The Executive Committee is a five-member body of the SCPP. As provided in SCPP Rule of Procedure No. 8, the Executive Committee sets the agendas for SCPP meetings, recommends actions to be taken by the full SCPP and performs all duties assigned to it by the SCPP. Currently, five of the six categories of SCPP membership are represented on the Executive Committee. There is no member of the Executive Committee from the sixth category, i.e. that of retirees.

Adding a retiree representative to the Executive Committee would require legislation due to the fact that the composition of the Executive Committee is governed by statute. See the attached copy of RCW 41.04.276 (4). If such legislation were to pass, the Executive Committee would then have six members. While there is a potential for deadlock in any body consisting of an even number of members, the Executive Committee has tended so far to act largely by consensus in making its recommendations to the SCPP. In any event, final actions are taken by the SCPP at large, which also has an even number of members.

Supporting Information

A copy of the statute setting forth the current membership of the Executive Committee is attached.

Executive Committee Recommendation

At its meeting on September 7, 2004, the Executive Committee recommended that a draft bill be prepared for the full SCPP that adds one retiree to the Executive Committee.

Draft Bill

A draft bill amending the statute governing Executive Committee membership is attached.

Fiscal Impact (Draft)

None.

RCW 41.04.276

Select committee on pension policy -- Creation -- Membership -- Terms of office -- Staff support.

(1) The select committee on pension policy is created. The select committee consists of:

(a) Four members of the senate appointed by the president of the senate, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the senate ways and means committee;

(b) Four members of the house of representatives appointed by the speaker, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the house of representatives appropriations committee;

(c) Four active members or representatives from organizations of active members of the state retirement systems appointed by the governor for staggered three-year terms, with no more than two appointees representing any one employee retirement system;

(d) Two retired members or representatives of retired members' organizations of the state retirement systems appointed by the governor for staggered three-year terms, with no two members from the same system;

(e) Four employer representatives of members of the state retirement systems appointed by the governor for staggered three-year terms; and

(f) The directors of the department of retirement systems and office of financial management.

(2)(a) The term of office of each member of the house of representatives or senate serving on the committee runs from the close of the session in which he or she is appointed until the close of the next regular session held in an odd-numbered year. If a successor is not appointed during a session, the member's term continues until the member is reappointed or a successor is appointed. The term of office for a committee member who is a member of the house of representatives or the senate who does not continue as a member of the senate or house of representatives ceases upon the convening of the next session of the legislature during the odd-numbered year following the member's appointment, or upon the member's resignation, whichever is earlier. All vacancies of positions held by members of the legislature must be filled from the same political party and from the same house as the member whose seat was vacated.

(b) Following the terms of members and representatives appointed under subsection (1)(d) of this section, the retiree positions shall be rotated to ensure that each system has an opportunity to have a retiree representative on the committee.

(3) The committee shall elect a chairperson and a vice-chairperson. The chairperson shall be a member of the senate in even-numbered years and a member of the house of representatives in odd-numbered years and the vice-chairperson shall be a member of the house of representatives in even-numbered years and a member of the senate in odd-numbered years.

(4) The committee shall establish an executive committee of five members, including the chairperson, the vice-chairperson, one member from subsection (1)(c) of this section, one member from subsection (1)(e) of this section, and one member from subsection (1)(f) of this section, with the directors of the department of retirement systems and the office of financial management serving in alternate years.

(5) Nonlegislative members of the select committee serve without compensation, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(6) The office of state actuary under chapter 44.44 RCW shall provide staff and technical support to the committee.

[2003 c 295 § 1.]

1 AN ACT Relating to adding one retiree representative to the
2 executive committee of the select committee on pension policy; and
3 amending RCW 41.04.276.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 41.04.276 and 2003 c 295 s 1 are each amended to read
6 as follows:

7 (1) The select committee on pension policy is created. The select
8 committee consists of:

9 (a) Four members of the senate appointed by the president of the
10 senate, two of whom are members of the majority party and two of whom
11 are members of the minority party. At least three of the appointees
12 shall be members of the senate ways and means committee;

13 (b) Four members of the house of representatives appointed by the
14 speaker, two of whom are members of the majority party and two of whom
15 are members of the minority party. At least three of the appointees
16 shall be members of the house of representatives appropriations
17 committee;

18 (c) Four active members or representatives from organizations of

1 active members of the state retirement systems appointed by the
2 governor for staggered three-year terms, with no more than two
3 appointees representing any one employee retirement system;

4 (d) Two retired members or representatives of retired members'
5 organizations of the state retirement systems appointed by the governor
6 for staggered three-year terms, with no two members from the same
7 system;

8 (e) Four employer representatives of members of the state
9 retirement systems appointed by the governor for staggered three-year
10 terms; and

11 (f) The directors of the department of retirement systems and
12 office of financial management.

13 (2)(a) The term of office of each member of the house of
14 representatives or senate serving on the committee runs from the close
15 of the session in which he or she is appointed until the close of the
16 next regular session held in an odd-numbered year. If a successor is
17 not appointed during a session, the member's term continues until the
18 member is reappointed or a successor is appointed. The term of office
19 for a committee member who is a member of the house of representatives
20 or the senate who does not continue as a member of the senate or house
21 of representatives ceases upon the convening of the next session of the
22 legislature during the odd-numbered year following the member's
23 appointment, or upon the member's resignation, whichever is earlier.
24 All vacancies of positions held by members of the legislature must be
25 filled from the same political party and from the same house as the
26 member whose seat was vacated.

27 (b) Following the terms of members and representatives appointed
28 under subsection (1)(d) of this section, the retiree positions shall be
29 rotated to ensure that each system has an opportunity to have a retiree
30 representative on the committee.

31 (3) The committee shall elect a chairperson and a vice-chairperson.
32 The chairperson shall be a member of the senate in even-numbered years
33 and a member of the house of representatives in odd-numbered years and
34 the vice-chairperson shall be a member of the house of representatives
35 in even-numbered years and a member of the senate in odd-numbered
36 years.

37 (4) The committee shall establish an executive committee of
38 ((five)) six members, including the chairperson, the vice-chairperson,

1 one member from subsection (1)(c) of this section, one member from
2 subsection (1)(d) of this section, one member from subsection (1)(e) of
3 this section, and one member from subsection (1)(f) of this section,
4 with the directors of the department of retirement systems and the
5 office of financial management serving in alternate years.

6 (5) Nonlegislative members of the select committee serve without
7 compensation, but shall be reimbursed for travel expenses under RCW
8 43.03.050 and 43.03.060.

9 (6) The office of state actuary under chapter 44.44 RCW shall
10 provide staff and technical support to the committee.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	10/5/04	Z-0151/05 / Z-0158/05

SUMMARY OF BILL:

This bill would add one retiree representative to the Executive Committee of the Select Committee on Pension Policy.

Effective Date: 90 days after session.

CURRENT SITUATION:

Currently there are five members of the Executive Committee of the Select Committee on Pension Policy representing five of the six categories of SCPP membership. The category of SCPP membership that is not currently represented on the Executive Committee is that of "retired members or representatives of retired members' organizations of the state retirement systems." The proposed legislation would add one additional member to the Executive Committee from this category.

FISCAL IMPACT:

There is no fiscal impact.

Select Committee on Pension Policy

Interruptive Military Service Credit

(October 12, 2004)

Issue

The issue before the Select Committee on Pension Policy is whether to expand opportunities for members of the Washington State Retirement Systems to acquire service credit for periods of interruptive military service.

Staff

Laura Harper, Senior Research Analyst/Legal
360-586-7616

Members Impacted

All members of Washington's retirement systems may avail themselves of some form of military service credit. "Interruptive" military service credit is available to those who interrupt public employment to serve in the uniformed military branches of the United States. This type of service is governed by the federal Uniformed Services Employment and Re-employment Rights Act (USERRA)¹. The act is described in more detail under the heading "Current Situation."

Current Situation

Interruptive military service is governed by federal law. At a minimum, public employers must provide the protections specified in the Uniformed Services Employment and Re-employment Rights Act (USERRA). USERRA was signed into law in 1994, with amendments made in 1996, 1998 and 2000. This law provides for the re-employment of individuals who leave employment to serve in the uniformed military branches. Included in USERRA's re-employment rights is the right to restoration of retirement plan benefits.

For employers, the fundamental requirement of USERRA as it relates to retirement plan benefits is to provide for recovery of the benefits that a re-employed participant did not receive due to qualifying military service. The employee must be treated for vesting and benefit accrual purposes as if he or she had remained continuously employed. Employers do not have to begin making up pension contributions until after the veteran returns to civilian employment with the same employer. Employers may fund makeup contributions over a period of three times the military service period, not to exceed five years. A rehired veteran is not entitled to missed allocations for any lost earnings on makeup contributions.

Generally, under USERRA, rehired veterans have up to three times the period of service - not to exceed five years - to make up missed employee contributions. The amount of makeup contributions is subject to the limits that would have applied during the military service period. No interest is charged on the contributions, because rehired veterans can only be charged the amount they would have been permitted or required to contribute had they remained continuously employed throughout the period of military service. The Washington State Retirement Systems allow a five-year payback period for employee contributions, regardless of the period of military service. Under USERRA there are exceptions to this general rule that may allow for a longer payback period.

The following hypothetical example illustrates how a member who is called into active duty may obtain service credit for interruptive military service. Consider a member of the Washington State Patrol Retirement System (WSPRS) who was hired July 1, 1999 and was called into active service from July 1, 2003 through June 30, 2004 after completing four years of service with WSPRS. This member's salary was \$40,000 when he left employment and he was required to make an employee contribution of 2% of salary during the period of active service. There was no required employer contribution. Assuming that the member is re-employed upon his return from active duty (according to the terms and conditions set forth in USERRA), the member has five years (more generous than USERRA's three years) to pay back the contributions he would have paid had he remained continuously employed. Therefore his total payment obligation is:

$$2\% \times \$40,000 \times 1 \text{ year} = \$800$$

Assuming repayment, the member is treated as if he had been continuously employed and his service credit had continued to accrue while away on active duty. The member's vesting date (based on a five-year vesting period for this plan) will be July 1, 2004. *Note:* the member's payback will vary from plan to plan, as member contribution rates differ throughout the Washington State Retirement Systems. Also, several of the Plans 1 (PERS 1, LEOFF 1 and Washington State Patrol "Plan 1") allow interruptive military service credit at no cost to the member if certain statutory conditions are met. See RCW 41.40.170, 41.46.190, 43.43.130(5) and 43.43.260(3)(a).

USERRA pre-empts state retirement policy in that all public employers must meet the minimum requirements of this federal law. However, states have the discretion to go beyond USERRA and grant benefits for the period of interruptive service that are more generous than those available under the act. The goal of USERRA is to treat employees who are called to active duty as if they had been continuously employed. Employers who choose to go beyond USERRA may reward active duty by paying all or part of the contributions that the member would have paid during the period of active duty. They may also provide all or part of the member's salary during the period of active service.

Options to Address Limitations of USERRA

1. Death in Service

While USERRA provides for the restoration of retirement benefits upon re-employment of a member whose public employment was interrupted by military service, it does not address the retirement benefits that would have accrued to members who die while in active service or those who are unable to be re-employed due to a disability. Thus, for example, if a PERS 2 member would have reached ten years of service during the period of interruptive military service and dies in action, but had only nine years of service credit prior to leaving for active duty, the surviving spouse would be limited to a refund (based on nine years of service credit) and would not be able to receive a survivor benefit in the nature of a pension payment (based on ten years of service credit). This could be remedied by allowing the surviving spouse to pay the contributions that the member would have paid but for the military service, and allowing the service credit to accrue to the date of death.

2. Total Disability in Service

Similarly, if the same member whose public employment was interrupted by military service becomes totally incapacitated for continued employment, that member's disability allowance would be based upon service credit up to the date he/she left employment for military service instead of to the date of disability. Allowing the disabled member to pay the member contributions and restore service credit up to the date of disability would be consistent with the federal policy of treating the veteran for vesting and benefit accrual purposes as if he/she had been continuously employed.

3. Employer Payments During Military Leave

Some Washington public employers are voluntarily paying all or part of the salary of members on military leave. Currently, such income cannot be reported to the Department of Retirement Systems (DRS). Thus none of these members can continue to accrue service credit while on active duty. They are, however, relieved of paying employee contributions during the period of military leave. As provided in USERRA, such members must wait until re-employment and pay back the member contributions they would have made had they been continuously employed so that service credit can be awarded. For vesting and accrual purposes, such members will still be treated as if they had been continuously employed.

Allowing employers to report these voluntary payments to DRS may enable some members to continue to accrue service credit during periods of interruptive military service for as long as their pension contributions are being paid. In some instances, this approach could result in service credit being awarded for a period of military service that does not result in an honorable discharge. It could also allow for benefit accruals even when the member, for whatever reason, does not return to the retirement system. Thus some members who never would have qualified for interruptive military service credit at all may be awarded service credit under this kind of provision. While such service credit could later be forfeited, DRS does not have a mechanism for tracking those who do not return from service and who are dishonorably discharged. In addition, DRS has no mechanism to forfeit service credit when contributions have already been paid.

The above-described options are being explored by the LEOFF 2 Board as possible legislative options for 2005.

Executive Committee Recommendation

On September 7, 2005 the Executive Committee recommended that new legislation be presented to the full SCPP that would address the limitations of USERRA. These limitations have to do with the fact that under USERRA a veteran must be re-employed to trigger USERRA rights; and those who die or become totally disabled while in service are not able to reinstate service credit under USERRA because they are not re-employed. The Executive Committee also suggested that the SCPP consider amendments to existing law that would allow members whose public employment is interrupted by serving in the military and whose employers are voluntarily paying salary during military leave to accrue service credit while serving in the uniformed services. This would be accomplished by allowing such pay to be reported to the Department of Retirement Systems (DRS) for pension purposes, and allowing the accrual of corresponding service credit if the member and employer continue to pay the required pension contributions during the period of interruptive service.

Bill Draft

The proposed bill draft is attached. Where interruptive military service credit is already available to members at no cost, the draft continues the no-cost policy for survivors and members who become totally disabled. LEOFF 1 is not included in the draft because members of that plan already receive free interruptive military service credit and there is no re-employment requirement.

Fiscal Note (Draft)

A draft fiscal note is attached.

Administrative Impacts

The OSA provided the bill draft to the Department of Retirement Systems and LEOFF 2 Retirement Board staff on September 28, 2004. DRS has identified administrative concerns with the pay differential element of the bill. In addition, there is concern that the bill may generate additional administrative responsibility in connection with the required disability determination.

1. For complete information about USERRA, see the USERRA Advisor, <http://www.dol.gov/elaws/userra.htm>.

1 AN ACT Relating to interruptive military service credit within the
2 public employees' retirement system, the school employees' retirement
3 system, the teachers' retirement system, the law enforcement officers'
4 and fire fighters' retirement system plan 2, the Washington state
5 patrol retirement system, and the public safety employees' retirement
6 system; amending RCW 41.40.170, 41.40.710, 41.40.805, 41.35.470,
7 41.35.650, 41.32.260, 41.32.810, 41.32.865, 41.26.520, 43.43.260, and
8 41.37.260; and providing an effective date.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 **Sec. 1.** RCW 41.40.170 and 2002 c 27 s 2 are each amended to read
11 as follows:

12 (1) A member who has served or shall serve on active federal
13 service in the military or naval forces of the United States and who
14 left or shall leave an employer to enter such service shall be deemed
15 to be on military leave of absence if he or she has resumed or shall
16 resume employment as an employee within one year from termination
17 thereof.

18 (2) If he or she has applied or shall apply for reinstatement of
19 employment, within one year from termination of the military service,

1 and is refused employment for reasons beyond his or her control, he or
2 she shall, upon resumption of service within ten years have such
3 service credited to him or her.

4 (3) In any event, after completing twenty-five years of creditable
5 service, any member may have service in the armed forces credited to
6 him or her as a member whether or not he or she left the employ of an
7 employer to enter the armed service: PROVIDED, That in no instance,
8 described in this section, shall military service in excess of five
9 years be credited: AND PROVIDED FURTHER, That in each instance the
10 member must restore all withdrawn accumulated contributions, which
11 restoration must be completed within five years of membership service
12 following the first resumption of employment or complete twenty-five
13 years of creditable service: AND PROVIDED FURTHER, That this section
14 will not apply to any individual, not a veteran within the meaning of
15 RCW 41.04.005.

16 (4) The surviving spouse or eligible child or children of a member
17 who left the employ of an employer to enter the uniformed services of
18 the United States and died while serving in the uniformed services may,
19 on behalf of the deceased member, apply for retirement system service
20 credit under this subsection up to the date of the member's death in
21 the uniformed services. The department shall establish the deceased
22 member's service credit if the surviving spouse or eligible child or
23 children:

24 (a) Provides to the director proof of the member's death while
25 serving in the uniformed services; and

26 (b) Provides to the director proof of the member's honorable
27 service in the uniformed services prior to the date of death.

28 (5) A member who leaves the employ of an employer to enter the
29 uniformed services of the United States and becomes totally
30 incapacitated for continued employment by an employer while serving in
31 the uniformed services is entitled to retirement system service credit
32 under this subsection up to the date of discharge from the uniformed
33 services if:

34 (a) The member obtains a determination from the director that he or
35 she is totally incapacitated for continued employment due to conditions
36 or events that occurred while serving in the uniformed services; and

37 (b) The member provides to the director proof of honorable
38 discharge from the uniformed services.

1 (6) If the employer of a member who leaves employment to enter the
2 uniformed services of the United States chooses to continue to pay all
3 or part of the member's salary during the period of interruptive
4 military service, such paid amounts may be reported to the department
5 for pension purposes and the member may continue to accrue the
6 corresponding service credit during the period of interruptive military
7 service for so long as the employer and the member make the required
8 pension contributions.

9 **Sec. 2.** RCW 41.40.710 and 2000 c 247 s 1106 are each amended to
10 read as follows:

11 (1) A member who is on a paid leave of absence authorized by a
12 member's employer shall continue to receive service credit as provided
13 for under the provisions of RCW 41.40.610 through 41.40.740.

14 (2) A member who receives compensation from an employer while on an
15 authorized leave of absence to serve as an elected official of a labor
16 organization, and whose employer is reimbursed by the labor
17 organization for the compensation paid to the member during the period
18 of absence, may also be considered to be on a paid leave of absence.
19 This subsection shall only apply if the member's leave of absence is
20 authorized by a collective bargaining agreement that provides that the
21 member retains seniority rights with the employer during the period of
22 leave. The compensation earnable reported for a member who establishes
23 service credit under this subsection may not be greater than the salary
24 paid to the highest paid job class covered by the collective bargaining
25 agreement.

26 (3) Except as specified in subsection (4) of this section, a member
27 shall be eligible to receive a maximum of two years service credit
28 during a member's entire working career for those periods when a member
29 is on an unpaid leave of absence authorized by an employer. Such
30 credit may be obtained only if:

31 (a) The member makes both the plan 2 employer and member
32 contributions plus interest as determined by the department for the
33 period of the authorized leave of absence within five years of
34 resumption of service or prior to retirement whichever comes sooner; or

35 (b) If not within five years of resumption of service but prior to
36 retirement, pay the amount required under RCW 41.50.165(2).

1 The contributions required under (a) of this subsection shall be
2 based on the average of the member's compensation earnable at both the
3 time the authorized leave of absence was granted and the time the
4 member resumed employment.

5 (4) A member who leaves the employ of an employer to enter the
6 ~~((armed forces))~~ uniformed services of the United States shall be
7 entitled to retirement system service credit for up to five years of
8 military service. This subsection shall be administered in a manner
9 consistent with the requirements of the federal uniformed services
10 employment and reemployment rights act.

11 (a) The member qualifies for service credit under this subsection
12 if:

13 (i) Within ninety days of the member's honorable discharge from the
14 uniformed services of the United States ~~((armed forces))~~, the member
15 applies for reemployment with the employer who employed the member
16 immediately prior to the member entering the ~~((United States armed~~
17 ~~forces))~~ uniformed services; and

18 (ii) The member makes the employee contributions required under RCW
19 41.45.061 and 41.45.067 within five years of resumption of service or
20 prior to retirement, whichever comes sooner; or

21 (iii) Prior to retirement and not within ninety days of the
22 member's honorable discharge or five years of resumption of service the
23 member pays the amount required under RCW 41.50.165(2).

24 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
25 or (e)(iii) of this subsection, the department shall establish the
26 member's service credit and shall bill the employer for its
27 contribution required under RCW 41.45.060, 41.45.061, and 41.45.067 for
28 the period of military service, plus interest as determined by the
29 department.

30 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
31 of this subsection shall be based on the compensation the member would
32 have earned if not on leave, or if that cannot be estimated with
33 reasonable certainty, the compensation reported for the member in the
34 year prior to when the member went on military leave.

35 (d) The surviving spouse or eligible child or children of a member
36 who left the employ of an employer to enter the uniformed services of
37 the United States and died while serving in the uniformed services may,
38 on behalf of the deceased member, apply for retirement system service

1 credit under this subsection up to the date of the member's death in
2 the uniformed services. The department shall establish the deceased
3 member's service credit if the surviving spouse or eligible child or
4 children:

5 (i) Provides to the director proof of the member's death while
6 serving in the uniformed services;

7 (ii) Provides to the director proof of the member's honorable
8 service in the uniformed services prior to the date of death; and

9 (iii) Pays the employee contributions required under chapter 41.45
10 RCW within five years of the date of death or prior to the distribution
11 of any benefit, whichever comes first.

12 (e) A member who leaves the employ of an employer to enter the
13 uniformed services of the United States and becomes totally
14 incapacitated for continued employment by an employer while serving in
15 the uniformed services is entitled to retirement system service credit
16 under this subsection up to the date of discharge from the uniformed
17 services if:

18 (i) The member obtains a determination from the director that he or
19 she is totally incapacitated for continued employment due to conditions
20 or events that occurred while serving in the uniformed services;

21 (ii) The member provides to the director proof of honorable
22 discharge from the uniformed services; and

23 (iii) The member pays the employee contributions required under
24 chapter 41.45 RCW within five years of the director's determination of
25 total disability or prior to the distribution of any benefit, whichever
26 comes first.

27 (f) If the employer of a member who leaves employment to enter the
28 uniformed services of the United States chooses to continue to pay all
29 or part of the member's salary during the period of interruptive
30 military service, such paid amounts may be reported to the department
31 for pension purposes and the member may continue to accrue the
32 corresponding service credit during the period of interruptive military
33 service for so long as the employer and the member make the required
34 pension contributions.

35 **Sec. 3.** RCW 41.40.805 and 2000 c 247 s 306 are each amended to
36 read as follows:

1 (1) A member who is on a paid leave of absence authorized by a
2 member's employer shall continue to receive service credit.

3 (2) A member who receives compensation from an employer while on an
4 authorized leave of absence to serve as an elected official of a labor
5 organization, and whose employer is reimbursed by the labor
6 organization for the compensation paid to the member during the period
7 of absence, may also be considered to be on a paid leave of absence.
8 This subsection shall only apply if the member's leave of absence is
9 authorized by a collective bargaining agreement that provides that the
10 member retains seniority rights with the employer during the period of
11 leave. The earnable compensation reported for a member who establishes
12 service credit under this subsection may not be greater than the salary
13 paid to the highest paid job class covered by the collective bargaining
14 agreement.

15 (3) Except as specified in subsection (4) of this section, a member
16 shall be eligible to receive a maximum of two years service credit
17 during a member's entire working career for those periods when a member
18 is on an unpaid leave of absence authorized by an employer. Such
19 credit may be obtained only if:

20 (a) The member makes the contribution on behalf of the employer,
21 plus interest, as determined by the department; and

22 (b) The member makes the employee contribution, plus interest, as
23 determined by the department, to the defined contribution portion.

24 The contributions required shall be based on the average of the
25 member's earnable compensation at both the time the authorized leave of
26 absence was granted and the time the member resumed employment.

27 (4) A member who leaves the employ of an employer to enter the
28 (~~armed forces~~) uniformed services of the United States shall be
29 entitled to retirement system service credit for up to five years of
30 military service if within ninety days of the member's honorable
31 discharge from the uniformed services of the United States (~~armed~~
32 ~~forces~~), the member applies for reemployment with the employer who
33 employed the member immediately prior to the member entering the
34 (~~United States armed forces~~) uniformed services. This subsection
35 shall be administered in a manner consistent with the requirements of
36 the federal uniformed services employment and reemployment rights act.

37 The department shall establish the member's service credit and
38 shall bill the employer for its contribution required under RCW

1 41.45.060 and 41.45.067 for the period of military service, plus
2 interest as determined by the department. Service credit under this
3 subsection may be obtained only if the member makes the employee
4 contribution to the defined contribution portion as determined by the
5 department.

6 The contributions required shall be based on the compensation the
7 member would have earned if not on leave, or if that cannot be
8 estimated with reasonable certainty, the compensation reported for the
9 member in the year prior to when the member went on military leave.

10 (a) The surviving spouse or eligible child or children of a member
11 who left the employ of an employer to enter the uniformed services of
12 the United States and died while serving in the uniformed services may,
13 on behalf of the deceased member, apply for retirement system service
14 credit under this subsection up to the date of the member's death in
15 the uniformed services. The department shall establish the deceased
16 member's service credit if the surviving spouse or eligible child or
17 children:

18 (i) Provides to the director proof of the member's death while
19 serving in the uniformed services;

20 (ii) Provides to the director proof of the member's honorable
21 service in the uniformed services prior to the date of death; and

22 (iii) Pays the employee contributions required under this
23 subsection within five years of the date of death or prior to the
24 distribution of any benefit, whichever comes first.

25 (b) A member who leaves the employ of an employer to enter the
26 uniformed services of the United States and becomes totally
27 incapacitated for continued employment by an employer while serving in
28 the uniformed services is entitled to retirement system service credit
29 under this subsection up to the date of discharge from the uniformed
30 services if:

31 (i) The member obtains a determination from the director that he or
32 she is totally incapacitated for continued employment due to conditions
33 or events that occurred while serving in the uniformed services;

34 (ii) The member provides to the director proof of honorable
35 discharge from the uniformed services; and

36 (iii) The member pays the employee contributions required under
37 this subsection within five years of the director's determination of

1 total disability or prior to the distribution of any benefit, whichever
2 comes first.

3 (c) If the employer of a member who leaves employment to enter the
4 uniformed services of the United States chooses to continue to pay all
5 or part of the member's salary during the period of interruptive
6 military service, such paid amounts may be reported to the department
7 for pension purposes and the member may continue to accrue the
8 corresponding service credit during the period of interruptive military
9 service for so long as the employer and the member make the required
10 pension contributions.

11 **Sec. 4.** RCW 41.35.470 and 1998 c 341 s 108 are each amended to
12 read as follows:

13 (1) A member who is on a paid leave of absence authorized by a
14 member's employer shall continue to receive service credit as provided
15 for under the provisions of RCW 41.35.400 through 41.35.599.

16 (2) A member who receives compensation from an employer while on an
17 authorized leave of absence to serve as an elected official of a labor
18 organization, and whose employer is reimbursed by the labor
19 organization for the compensation paid to the member during the period
20 of absence, may also be considered to be on a paid leave of absence.
21 This subsection shall only apply if the member's leave of absence is
22 authorized by a collective bargaining agreement that provides that the
23 member retains seniority rights with the employer during the period of
24 leave. The compensation earnable reported for a member who establishes
25 service credit under this subsection may not be greater than the salary
26 paid to the highest paid job class covered by the collective bargaining
27 agreement.

28 (3) Except as specified in subsection (4) of this section, a member
29 shall be eligible to receive a maximum of two years service credit
30 during a member's entire working career for those periods when a member
31 is on an unpaid leave of absence authorized by an employer. Such
32 credit may be obtained only if:

33 (a) The member makes both the plan 2 employer and member
34 contributions plus interest as determined by the department for the
35 period of the authorized leave of absence within five years of
36 resumption of service or prior to retirement whichever comes sooner; or

1 (b) If not within five years of resumption of service but prior to
2 retirement, pay the amount required under RCW 41.50.165(2).

3 The contributions required under (a) of this subsection shall be
4 based on the average of the member's compensation earnable at both the
5 time the authorized leave of absence was granted and the time the
6 member resumed employment.

7 (4) A member who leaves the employ of an employer to enter the
8 ~~((armed forces))~~ uniformed services of the United States shall be
9 entitled to retirement system service credit for up to five years of
10 military service. This subsection shall be administered in a manner
11 consistent with the requirements of the federal uniformed services
12 employment and reemployment rights act.

13 (a) The member qualifies for service credit under this subsection
14 if:

15 (i) Within ninety days of the member's honorable discharge from the
16 uniformed services of the United States ~~((armed forces))~~, the member
17 applies for reemployment with the employer who employed the member
18 immediately prior to the member entering the ~~((United States armed~~
19 ~~forces))~~ uniformed services; and

20 (ii) The member makes the employee contributions required under RCW
21 41.35.430 within five years of resumption of service or prior to
22 retirement, whichever comes sooner; or

23 (iii) Prior to retirement and not within ninety days of the
24 member's honorable discharge or five years of resumption of service the
25 member pays the amount required under RCW 41.50.165(2).

26 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
27 or (e)(iii) of this subsection, the department shall establish the
28 member's service credit and shall bill the employer for its
29 contribution required under RCW 41.35.430 for the period of military
30 service, plus interest as determined by the department.

31 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
32 of this subsection shall be based on the compensation the member would
33 have earned if not on leave, or if that cannot be estimated with
34 reasonable certainty, the compensation reported for the member in the
35 year prior to when the member went on military leave.

36 (d) The surviving spouse or eligible child or children of a member
37 who left the employ of an employer to enter the uniformed services of
38 the United States and died while serving in the uniformed services may,

1 on behalf of the deceased member, apply for retirement system service
2 credit under this subsection up to the date of the member's death in
3 the uniformed services. The department shall establish the deceased
4 member's service credit if the surviving spouse or eligible child or
5 children:

6 (i) Provides to the director proof of the member's death while
7 serving in the uniformed services;

8 (ii) Provides to the director proof of the member's honorable
9 service in the uniformed services prior to the date of death; and

10 (iii) Pays the employee contributions required under chapter 41.45
11 RCW within five years of the date of death or prior to the distribution
12 of any benefit, whichever comes first.

13 (e) A member who leaves the employ of an employer to enter the
14 uniformed services of the United States and becomes totally
15 incapacitated for continued employment by an employer while serving in
16 the uniformed services is entitled to retirement system service credit
17 under this subsection up to the date of discharge from the uniformed
18 services if:

19 (i) The member obtains a determination from the director that he or
20 she is totally incapacitated for continued employment due to conditions
21 or events that occurred while serving in the uniformed services;

22 (ii) The member provides to the director proof of honorable
23 discharge from the uniformed services; and

24 (iii) The member pays the employee contributions required under
25 chapter 41.45 RCW within five years of the director's determination of
26 total disability or prior to the distribution of any benefit, whichever
27 comes first.

28 (f) If the employer of a member who leaves employment to enter the
29 uniformed services of the United States chooses to continue to pay all
30 or part of the member's salary during the period of interruptive
31 military service, such paid amounts may be reported to the department
32 for pension purposes and the member may continue to accrue the
33 corresponding service credit during the period of interruptive military
34 service for so long as the employer and the member make the required
35 pension contributions.

36 **Sec. 5.** RCW 41.35.650 and 1998 c 341 s 206 are each amended to
37 read as follows:

1 (1) A member who is on a paid leave of absence authorized by a
2 member's employer shall continue to receive service credit.

3 (2) A member who receives compensation from an employer while on an
4 authorized leave of absence to serve as an elected official of a labor
5 organization, and whose employer is reimbursed by the labor
6 organization for the compensation paid to the member during the period
7 of absence, may also be considered to be on a paid leave of absence.
8 This subsection shall only apply if the member's leave of absence is
9 authorized by a collective bargaining agreement that provides that the
10 member retains seniority rights with the employer during the period of
11 leave. The earnable compensation reported for a member who establishes
12 service credit under this subsection may not be greater than the salary
13 paid to the highest paid job class covered by the collective bargaining
14 agreement.

15 (3) Except as specified in subsection (4) of this section, a member
16 shall be eligible to receive a maximum of two years service credit
17 during a member's entire working career for those periods when a member
18 is on an unpaid leave of absence authorized by an employer. Such
19 credit may be obtained only if:

20 (a) The member makes the contribution on behalf of the employer,
21 plus interest, as determined by the department; and

22 (b) The member makes the employee contribution, plus interest, as
23 determined by the department, to the defined contribution portion.

24 The contributions required shall be based on the average of the
25 member's earnable compensation at both the time the authorized leave of
26 absence was granted and the time the member resumed employment.

27 (4) A member who leaves the employ of an employer to enter the
28 ~~((armed forces))~~ uniformed services of the United States shall be
29 entitled to retirement system service credit for up to five years of
30 military service if within ninety days of the member's honorable
31 discharge from the uniformed services of the United States ~~((armed~~
32 ~~forces))~~, the member applies for reemployment with the employer who
33 employed the member immediately prior to the member entering the
34 ~~((United States armed forces))~~ uniformed services. This subsection
35 shall be administered in a manner consistent with the requirements of
36 the federal uniformed services employment and reemployment rights act.

37 The department shall establish the member's service credit and
38 shall bill the employer for its contribution required under RCW

1 41.35.720 for the period of military service, plus interest as
2 determined by the department. Service credit under this subsection may
3 be obtained only if the member makes the employee contribution to the
4 defined contribution portion as determined by the department.

5 The contributions required shall be based on the compensation the
6 member would have earned if not on leave, or if that cannot be
7 estimated with reasonable certainty, the compensation reported for the
8 member in the year prior to when the member went on military leave.

9 (a) The surviving spouse or eligible child or children of a member
10 who left the employ of an employer to enter the uniformed services of
11 the United States and died while serving in the uniformed services may,
12 on behalf of the deceased member, apply for retirement system service
13 credit under this subsection up to the date of the member's death in
14 the uniformed services. The department shall establish the deceased
15 member's service credit if the surviving spouse or eligible child or
16 children:

17 (i) Provides to the director proof of the member's death while
18 serving in the uniformed services;

19 (ii) Provides to the director proof of the member's honorable
20 service in the uniformed services prior to the date of death; and

21 (iii) Pays the employee contributions required under this
22 subsection within five years of the date of death or prior to the
23 distribution of any benefit, whichever comes first.

24 (b) A member who leaves the employ of an employer to enter the
25 uniformed services of the United States and becomes totally
26 incapacitated for continued employment by an employer while serving in
27 the uniformed services is entitled to retirement system service credit
28 under this subsection up to the date of discharge from the uniformed
29 services if:

30 (i) The member obtains a determination from the director that he or
31 she is totally incapacitated for continued employment due to conditions
32 or events that occurred while serving in the uniformed services;

33 (ii) The member provides to the director proof of honorable
34 discharge from the uniformed services; and

35 (iii) The member pays the employee contributions required under
36 this subsection within five years of the director's determination of
37 total disability or prior to the distribution of any benefit, whichever
38 comes first.

1 (c) If the employer of a member who leaves employment to enter the
2 uniformed services of the United States chooses to continue to pay all
3 or part of the member's salary during the period of interruptive
4 military service, such paid amounts may be reported to the department
5 for pension purposes and the member may continue to accrue the
6 corresponding service credit during the period of interruptive military
7 service for so long as the employer and the member make the required
8 pension contributions.

9 **Sec. 6.** RCW 41.32.260 and 1992 c 212 s 8 are each amended to read
10 as follows:

11 Any member whose public school service is interrupted by active
12 service to the United States as a member of its (~~(military, naval or~~
13 ~~air service)) uniformed services, or to the state of Washington, as a~~

14 member of the legislature, may upon becoming reemployed in the public
15 schools, receive credit for that service upon presenting satisfactory
16 proof, and contributing to the member reserve, either in a lump sum or
17 installments, amounts determined by the director. Except that no
18 military service credit in excess of five years shall be established or
19 reestablished after July 1, 1961, unless the service was actually
20 rendered during time of war. This section shall be administered in a
21 manner consistent with the requirements of the federal uniformed
22 services employment and reemployment rights act.

23 (1) The surviving spouse or eligible child or children of a member
24 who left the employ of an employer to enter the uniformed services of
25 the United States and died while serving in the uniformed services may,
26 on behalf of the deceased member, apply for retirement system service
27 credit under this subsection up to the date of the member's death in
28 the uniformed services. The department shall establish the deceased
29 member's service credit if the surviving spouse or eligible child or
30 children:

31 (a) Provides to the director proof of the member's death while
32 serving in the uniformed services;

33 (b) Provides to the director proof of the member's honorable
34 service in the uniformed services prior to the date of death; and

35 (c) Pays the employee contributions required under chapter 41.45
36 RCW within five years of the date of death or prior to the distribution
37 of any benefit, whichever comes first.

1 (2) A member who leaves the employ of an employer to enter the
2 uniformed services of the United States and becomes totally
3 incapacitated for continued employment by an employer while serving in
4 the uniformed services is entitled to retirement system service credit
5 under this subsection up to the date of discharge from the uniformed
6 services if:

7 (a) The member obtains a determination from the director that he or
8 she is totally incapacitated for continued employment due to conditions
9 or events that occurred while serving in the uniformed services;

10 (b) The member provides to the director proof of honorable
11 discharge from the uniformed services; and

12 (c) The member pays the employee contributions required under
13 chapter 41.45 RCW within five years of the director's determination of
14 total disability or prior to the distribution of any benefit, whichever
15 comes first.

16 (3) If the employer of a member who leaves employment to enter the
17 uniformed services of the United States chooses to continue to pay all
18 or part of the member's salary during the period of interruptive
19 military service, such paid amounts may be reported to the department
20 for pension purposes and the member may continue to accrue the
21 corresponding service credit during the period of interruptive military
22 service for so long as the employer and the member make the required
23 pension contributions.

24 **Sec. 7.** RCW 41.32.810 and 1996 c 61 s 2 are each amended to read
25 as follows:

26 (1) A member who is on a paid leave of absence authorized by a
27 member's employer shall continue to receive service credit as provided
28 for under the provisions of RCW 41.32.755 through 41.32.825.

29 (2) A member who receives compensation from an employer while on an
30 authorized leave of absence to serve as an elected official of a labor
31 organization, and whose employer is reimbursed by the labor
32 organization for the compensation paid to the member during the period
33 of absence, may also be considered to be on a paid leave of absence.
34 This subsection shall only apply if the member's leave of absence is
35 authorized by a collective bargaining agreement that provides that the
36 member retains seniority rights with the employer during the period of
37 leave. The earnable compensation reported for a member who establishes

1 service credit under this subsection may not be greater than the salary
2 paid to the highest paid job class covered by the collective bargaining
3 agreement.

4 (3) Except as specified in subsection (6) of this section, a member
5 shall be eligible to receive a maximum of two years service credit
6 during a member's entire working career for those periods when a member
7 is on an unpaid leave of absence authorized by an employer. Such
8 credit may be obtained only if the member makes both the employer and
9 member contributions plus interest as determined by the department for
10 the period of the authorized leave of absence within five years of
11 resumption of service or prior to retirement whichever comes sooner.

12 (4) If a member fails to meet the time limitations of subsection
13 (3) of this section, the member may receive a maximum of two years of
14 service credit during a member's working career for those periods when
15 a member is on unpaid leave of absence authorized by an employer. This
16 may be done by paying the amount required under RCW 41.50.165(2) prior
17 to retirement.

18 (5) For the purpose of subsection (3) of this section, the
19 contribution shall not include the contribution for the unfunded
20 supplemental present value as required by RCW 41.32.775. The
21 contributions required shall be based on the average of the member's
22 earnable compensation at both the time the authorized leave of absence
23 was granted and the time the member resumed employment.

24 (6) A member who leaves the employ of an employer to enter the
25 ~~((armed forces))~~ uniformed services of the United States shall be
26 entitled to retirement system service credit for up to five years of
27 military service. This subsection shall be administered in a manner
28 consistent with the requirements of the federal uniformed services
29 employment and reemployment rights act.

30 (a) The member qualifies for service credit under this subsection
31 if:

32 (i) Within ninety days of the member's honorable discharge from the
33 uniformed services of the United States ~~((armed forces))~~, the member
34 applies for reemployment with the employer who employed the member
35 immediately prior to the member entering the ~~((United States armed~~
36 ~~forces))~~ uniformed services; and

37 (ii) The member makes the employee contributions required under RCW

1 41.32.775 within five years of resumption of service or prior to
2 retirement, whichever comes sooner; or

3 (iii) Prior to retirement and not within ninety days of the
4 member's honorable discharge or five years of resumption of service the
5 member pays the amount required under RCW 41.50.165(2).

6 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
7 or (e)(iii) of this subsection, the department shall establish the
8 member's service credit and shall bill the employer for its
9 contribution required under RCW 41.32.775 for the period of military
10 service, plus interest as determined by the department.

11 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
12 of this subsection shall be based on the compensation the member would
13 have earned if not on leave, or if that cannot be estimated with
14 reasonable certainty, the compensation reported for the member in the
15 year prior to when the member went on military leave.

16 (d) The surviving spouse or eligible child or children of a member
17 who left the employ of an employer to enter the uniformed services of
18 the United States and died while serving in the uniformed services may,
19 on behalf of the deceased member, apply for retirement system service
20 credit under this subsection up to the date of the member's death in
21 the uniformed services. The department shall establish the deceased
22 member's service credit if the surviving spouse or eligible child or
23 children:

24 (i) Provides to the director proof of the member's death while
25 serving in the uniformed services;

26 (ii) Provides to the director proof of the member's honorable
27 service in the uniformed services prior to the date of death; and

28 (iii) Pays the employee contributions required under chapter 41.45
29 RCW within five years of the date of death or prior to the distribution
30 of any benefit, whichever comes first.

31 (e) A member who leaves the employ of an employer to enter the
32 uniformed services of the United States and becomes totally
33 incapacitated for continued employment by an employer while serving in
34 the uniformed services is entitled to retirement system service credit
35 under this subsection up to the date of discharge from the uniformed
36 services if:

37 (i) The member obtains a determination from the director that he or

1 she is totally incapacitated for continued employment due to conditions
2 or events that occurred while serving in the uniformed services;

3 (ii) The member provides to the director proof of honorable
4 discharge from the uniformed services; and

5 (iii) The member pays the employee contributions required under
6 chapter 41.45 RCW within five years of the director's determination of
7 total disability or prior to the distribution of any benefit, whichever
8 comes first.

9 (f) If the employer of a member who leaves employment to enter the
10 uniformed services of the United States chooses to continue to pay all
11 or part of the member's salary during the period of interruptive
12 military service, such paid amounts may be reported to the department
13 for pension purposes and the member may continue to accrue the
14 corresponding service credit during the period of interruptive military
15 service for so long as the employer and the member make the required
16 pension contributions.

17 **Sec. 8.** RCW 41.32.865 and 1996 c 61 s 3 are each amended to read
18 as follows:

19 (1) A member who is on a paid leave of absence authorized by a
20 member's employer shall continue to receive service credit.

21 (2) A member who receives compensation from an employer while on an
22 authorized leave of absence to serve as an elected official of a labor
23 organization, and whose employer is reimbursed by the labor
24 organization for the compensation paid to the member during the period
25 of absence, may also be considered to be on a paid leave of absence.
26 This subsection shall only apply if the member's leave of absence is
27 authorized by a collective bargaining agreement that provides that the
28 member retains seniority rights with the employer during the period of
29 leave. The earnable compensation reported for a member who establishes
30 service credit under this subsection may not be greater than the salary
31 paid to the highest paid job class covered by the collective bargaining
32 agreement.

33 (3) Except as specified in subsection (4) of this section, a member
34 shall be eligible to receive a maximum of two years service credit
35 during a member's entire working career for those periods when a member
36 is on an unpaid leave of absence authorized by an employer. Such
37 credit may be obtained only if:

1 (a) The member makes the contribution on behalf of the employer,
2 plus interest, as determined by the department; and

3 (b) The member makes the employee contribution, plus interest, as
4 determined by the department, to the defined contribution portion.

5 The contributions required shall be based on the average of the
6 member's earnable compensation at both the time the authorized leave of
7 absence was granted and the time the member resumed employment.

8 (4) A member who leaves the employ of an employer to enter the
9 (~~((armed forces))~~) uniformed services of the United States shall be
10 entitled to retirement system service credit for up to five years of
11 military service if within ninety days of the member's honorable
12 discharge from the uniformed services of the United States (~~((armed~~
13 ~~forces))~~), the member applies for reemployment with the employer who
14 employed the member immediately prior to the member entering the
15 (~~((United States armed forces))~~) uniformed services. This subsection
16 shall be administered in a manner consistent with the requirements of
17 the federal uniformed services employment and reemployment rights act.

18 The department shall establish the member's service credit and
19 shall bill the employer for its contribution required under chapter
20 239, Laws of 1995 for the period of military service, plus interest as
21 determined by the department. Service credit under this subsection may
22 be obtained only if the member makes the employee contribution to the
23 defined contribution portion as determined by the department.

24 The contributions required shall be based on the compensation the
25 member would have earned if not on leave, or if that cannot be
26 estimated with reasonable certainty, the compensation reported for the
27 member in the year prior to when the member went on military leave.

28 (a) The surviving spouse or eligible child or children of a member
29 who left the employ of an employer to enter the uniformed services of
30 the United States and died while serving in the uniformed services may,
31 on behalf of the deceased member, apply for retirement system service
32 credit under this subsection up to the date of the member's death in
33 the uniformed services. The department shall establish the deceased
34 member's service credit if the surviving spouse or eligible child or
35 children:

36 (i) Provides to the director proof of the member's death while
37 serving in the uniformed services;

1 (ii) Provides to the director proof of the member's honorable
2 service in the uniformed services prior to the date of death; and

3 (iii) Pays the employee contributions required under this
4 subsection within five years of the date of death or prior to the
5 distribution of any benefit, whichever comes first.

6 (b) A member who leaves the employ of an employer to enter the
7 uniformed services of the United States and becomes totally
8 incapacitated for continued employment by an employer while serving in
9 the uniformed services is entitled to retirement system service credit
10 under this subsection up to the date of discharge from the uniformed
11 services if:

12 (i) The member obtains a determination from the director that he or
13 she is totally incapacitated for continued employment due to conditions
14 or events that occurred while serving in the uniformed services;

15 (ii) The member provides to the director proof of honorable
16 discharge from the uniformed services; and

17 (iii) The member pays the employee contributions required under
18 this subsection within five years of the director's determination of
19 total disability or prior to the distribution of any benefit, whichever
20 comes first.

21 (c) If the employer of a member who leaves employment to enter the
22 uniformed services of the United States chooses to continue to pay all
23 or part of the member's salary during the period of interruptive
24 military service, such paid amounts may be reported to the department
25 for pension purposes and the member may continue to accrue the
26 corresponding service credit during the period of interruptive military
27 service for so long as the employer and the member make the required
28 pension contributions.

29 **Sec. 9.** RCW 41.26.520 and 2002 c 28 s 1 are each amended to read
30 as follows:

31 (1) A member who is on a paid leave of absence authorized by a
32 member's employer shall continue to receive service credit as provided
33 for under the provisions of RCW 41.26.410 through 41.26.550.

34 (2) A member who receives compensation from an employer while on an
35 authorized leave of absence to serve as an elected official of a labor
36 organization, and whose employer is reimbursed by the labor
37 organization for the compensation paid to the member during the period

1 of absence, may also be considered to be on a paid leave of absence.
2 This subsection shall only apply if the member's leave of absence is
3 authorized by a collective bargaining agreement that provides that the
4 member retains seniority rights with the employer during the period of
5 leave. The basic salary reported for a member who establishes service
6 credit under this subsection may not be greater than the salary paid to
7 the highest paid job class covered by the collective bargaining
8 agreement.

9 (3) Except as specified in subsection (7) of this section, a member
10 shall be eligible to receive a maximum of two years service credit
11 during a member's entire working career for those periods when a member
12 is on an unpaid leave of absence authorized by an employer. Such
13 credit may be obtained only if the member makes the employer, member,
14 and state contributions plus interest as determined by the department
15 for the period of the authorized leave of absence within five years of
16 resumption of service or prior to retirement whichever comes sooner.

17 (4) A law enforcement member may be authorized by an employer to
18 work part time and to go on a part-time leave of absence. During a
19 part-time leave of absence a member is prohibited from any other
20 employment with their employer. A member is eligible to receive credit
21 for any portion of service credit not earned during a month of part-
22 time leave of absence if the member makes the employer, member, and
23 state contributions, plus interest, as determined by the department for
24 the period of the authorized leave within five years of resumption of
25 full-time service or prior to retirement whichever comes sooner. Any
26 service credit purchased for a part-time leave of absence is included
27 in the two-year maximum provided in subsection (3) of this section.

28 (5) If a member fails to meet the time limitations of subsection
29 (3) or (4) of this section, the member may receive a maximum of two
30 years of service credit during a member's working career for those
31 periods when a member is on unpaid leave of absence authorized by an
32 employer. This may be done by paying the amount required under RCW
33 41.50.165(2) prior to retirement.

34 (6) For the purpose of subsection (3) or (4) of this section the
35 contribution shall not include the contribution for the unfunded
36 supplemental present value as required by RCW 41.45.060, 41.45.061, and
37 41.45.067. The contributions required shall be based on the average of

1 the member's basic salary at both the time the authorized leave of
2 absence was granted and the time the member resumed employment.

3 (7) A member who leaves the employ of an employer to enter the
4 (~~((armed forces))~~) uniformed services of the United States shall be
5 entitled to retirement system service credit for up to five years of
6 military service. This subsection shall be administered in a manner
7 consistent with the requirements of the federal uniformed services
8 employment and reemployment rights act.

9 (a) The member qualifies for service credit under this subsection
10 if:

11 (i) Within ninety days of the member's honorable discharge from the
12 uniformed services of the United States (~~((armed forces))~~), the member
13 applies for reemployment with the employer who employed the member
14 immediately prior to the member entering the (~~((United States armed~~
15 ~~forces))~~) uniformed services; and

16 (ii) The member makes the employee contributions required under RCW
17 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of
18 service or prior to retirement, whichever comes sooner; or

19 (iii) Prior to retirement and not within ninety days of the
20 member's honorable discharge or five years of resumption of service the
21 member pays the amount required under RCW 41.50.165(2).

22 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
23 or (e)(iii) of this subsection, the department shall establish the
24 member's service credit and shall bill the employer and the state for
25 their respective contributions required under RCW 41.26.450 for the
26 period of military service, plus interest as determined by the
27 department.

28 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
29 of this subsection shall be based on the compensation the member would
30 have earned if not on leave, or if that cannot be estimated with
31 reasonable certainty, the compensation reported for the member in the
32 year prior to when the member went on military leave.

33 (d) The surviving spouse or eligible child or children of a member
34 who left the employ of an employer to enter the uniformed services of
35 the United States and died while serving in the uniformed services may,
36 on behalf of the deceased member, apply for retirement system service
37 credit under this subsection up to the date of the member's death in

1 the uniformed services. The department shall establish the deceased
2 member's service credit if the surviving spouse or eligible child or
3 children:

4 (i) Provides to the director proof of the member's death while
5 serving in the uniformed services;

6 (ii) Provides to the director proof of the member's honorable
7 service in the uniformed services prior to the date of death; and

8 (iii) Pays the employee contributions required under chapter 41.45
9 RCW within five years of the date of death or prior to the distribution
10 of any benefit, whichever comes first.

11 (e) A member who leaves the employ of an employer to enter the
12 uniformed services of the United States and becomes totally
13 incapacitated for continued employment by an employer while serving in
14 the uniformed services is entitled to retirement system service credit
15 under this subsection up to the date of discharge from the uniformed
16 services if:

17 (i) The member obtains a determination from the director that he or
18 she is totally incapacitated for continued employment due to conditions
19 or events that occurred while serving in the uniformed services;

20 (ii) The member provides to the director proof of honorable
21 discharge from the uniformed services; and

22 (iii) The member pays the employee contributions required under
23 chapter 41.45 RCW within five years of the director's determination of
24 total disability or prior to the distribution of any benefit, whichever
25 comes first.

26 (f) If the employer of a member who leaves employment to enter the
27 uniformed services of the United States chooses to continue to pay all
28 or part of the member's salary during the period of interruptive
29 military service, such paid amounts may be reported to the department
30 for pension purposes and the member may continue to accrue the
31 corresponding service credit during the period of interruptive military
32 service for so long as the employer and the member make the required
33 pension contributions.

34 (8) A member receiving benefits under Title 51 RCW who is not
35 receiving benefits under this chapter shall be deemed to be on unpaid,
36 authorized leave of absence.

1 **Sec. 10.** RCW 43.43.260 and 2002 c 27 s 3 are each amended to read
2 as follows:

3 Upon retirement from service as provided in RCW 43.43.250, a member
4 shall be granted a retirement allowance which shall consist of:

5 (1) A prior service allowance which shall be equal to two percent
6 of the member's average final salary multiplied by the number of years
7 of prior service rendered by the member.

8 (2) A current service allowance which shall be equal to two percent
9 of the member's average final salary multiplied by the number of years
10 of service rendered while a member of the retirement system.

11 (3)(a) Any member commissioned prior to January 1, 2003, with
12 twenty-five years service in the Washington state patrol may have the
13 member's service in the ((armed-forces)) uniformed services credited as
14 a member whether or not the individual left the employ of the
15 Washington state patrol to enter such ((armed-forces)) uniformed
16 services: PROVIDED, That in no instance shall military service in
17 excess of five years be credited: AND PROVIDED FURTHER, That in each
18 instance, a member must restore all withdrawn accumulated
19 contributions, which restoration must be completed on the date of the
20 member's retirement, or as provided under RCW 43.43.130, whichever
21 occurs first: AND PROVIDED FURTHER, That this section shall not apply
22 to any individual, not a veteran within the meaning of RCW 41.06.150.

23 (b) A member who leaves the Washington state patrol to enter the
24 ((armed-forces)) uniformed services of the United States shall be
25 entitled to retirement system service credit for up to five years of
26 military service. This subsection shall be administered in a manner
27 consistent with the requirements of the federal uniformed services
28 employment and reemployment rights act.

29 (i) The member qualifies for service credit under this subsection
30 if:

31 (A) Within ninety days of the member's honorable discharge from the
32 uniformed services of the United States ((armed-forces)), the member
33 applies for reemployment with the employer who employed the member
34 immediately prior to the member entering the ((United States armed
35 forces)) uniformed services; and

36 (B) The member makes the employee contributions required under RCW
37 41.45.0631 and 41.45.067 within five years of resumption of service or
38 prior to retirement, whichever comes sooner; or

1 (C) Prior to retirement and not within ninety days of the member's
2 honorable discharge or five years of resumption of service the member
3 pays the amount required under RCW 41.50.165(2).

4 (ii) Upon receipt of member contributions under (b)(i)(B),
5 (b)(iv)(C), and (b)(v)(C) of this subsection, the department shall
6 establish the member's service credit and shall bill the employer for
7 its contribution required under RCW 41.45.060 for the period of
8 military service, plus interest as determined by the department.

9 (iii) The contributions required under (b)(i)(B), (b)(iv)(C), and
10 (b)(v)(C) of this subsection shall be based on the compensation the
11 member would have earned if not on leave, or if that cannot be
12 estimated with reasonable certainty, the compensation reported for the
13 member in the year prior to when the member went on military leave.

14 (iv) The surviving spouse or eligible child or children of a member
15 who left the employ of an employer to enter the uniformed services of
16 the United States and died while serving in the uniformed services may,
17 on behalf of the deceased member, apply for retirement system service
18 credit under this subsection up to the date of the member's death in
19 the uniformed services. The department shall establish the deceased
20 member's service credit if the surviving spouse or eligible child or
21 children:

22 (A) Provides to the director proof of the member's death while
23 serving in the uniformed services;

24 (B) Provides to the director proof of the member's honorable
25 service in the uniformed services prior to the date of death; and

26 (C) If the member was commissioned on or after January 1, 2003,
27 pays the employee contributions required under chapter 41.45 RCW within
28 five years of the date of death or prior to the distribution of any
29 benefit, whichever comes first.

30 (v) A member who leaves the employ of an employer to enter the
31 uniformed services of the United States and becomes totally
32 incapacitated for continued employment by an employer while serving in
33 the uniformed services is entitled to retirement system service credit
34 under this subsection up to the date of discharge from the uniformed
35 services if:

36 (A) The member obtains a determination from the director that he or
37 she is totally incapacitated for continued employment due to conditions
38 or events that occurred while serving in the uniformed services;

1 (B) The member provides to the director proof of honorable
2 discharge from the uniformed services; and

3 (C) If the member was commissioned on or after January 1, 2003, the
4 member pays the employee contributions required under chapter 41.45 RCW
5 within five years of the director's determination of total disability
6 or prior to the distribution of any benefit, whichever comes first.

7 (vi) If the employer of a member who leaves employment to enter the
8 uniformed services of the United States chooses to continue to pay all
9 or part of the member's salary during the period of interruptive
10 military service, such paid amounts may be reported to the department
11 for pension purposes and the member may continue to accrue the
12 corresponding service credit during the period of interruptive military
13 service for so long as the employer and the member make the required
14 pension contributions.

15 (4) In no event shall the total retirement benefits from
16 subsections (1), (2), and (3) of this section, of any member exceed
17 seventy-five percent of the member's average final salary.

18 (5) Beginning July 1, 2001, and every year thereafter, the
19 department shall determine the following information for each retired
20 member or beneficiary whose retirement allowance has been in effect for
21 at least one year:

22 (a) The original dollar amount of the retirement allowance;

23 (b) The index for the calendar year prior to the effective date of
24 the retirement allowance, to be known as "index A";

25 (c) The index for the calendar year prior to the date of
26 determination, to be known as "index B"; and

27 (d) The ratio obtained when index B is divided by index A.

28 The value of the ratio obtained shall be the annual adjustment to
29 the original retirement allowance and shall be applied beginning with
30 the July payment. In no event, however, shall the annual adjustment:

31 (i) Produce a retirement allowance which is lower than the original
32 retirement allowance;

33 (ii) Exceed three percent in the initial annual adjustment; or

34 (iii) Differ from the previous year's annual adjustment by more
35 than three percent.

36 For the purposes of this section, "index" means, for any calendar
37 year, that year's average consumer price index for the Seattle-Tacoma-

1 Bremerton Washington area for urban wage earners and clerical workers,
2 all items, compiled by the bureau of labor statistics, United States
3 department of labor.

4 The provisions of this section shall apply to all members presently
5 retired and to all members who shall retire in the future.

6 **Sec. 11.** RCW 41.37.260 and 2004 c 242 s 32 are each amended to
7 read as follows:

8 (1) A member who is on a paid leave of absence authorized by a
9 member's employer shall continue to receive service credit as provided
10 for under RCW 41.37.190 through 41.37.290.

11 (2) A member who receives compensation from an employer while on an
12 authorized leave of absence to serve as an elected official of a labor
13 organization, and whose employer is reimbursed by the labor
14 organization for the compensation paid to the member during the period
15 of absence, may also be considered to be on a paid leave of absence.
16 This subsection shall only apply if the member's leave of absence is
17 authorized by a collective bargaining agreement that provides that the
18 member retains seniority rights with the employer during the period of
19 leave. The compensation earnable reported for a member who establishes
20 service credit under this subsection may not be greater than the salary
21 paid to the highest paid job class covered by the collective bargaining
22 agreement.

23 (3) Except as specified in subsection (4) of this section, a member
24 shall be eligible to receive a maximum of two years service credit
25 during a member's entire working career for those periods when a member
26 is on an unpaid leave of absence authorized by an employer. This
27 credit may be obtained only if:

28 (a) The member makes both the employer and member contributions
29 plus interest as determined by the department for the period of the
30 authorized leave of absence within five years of resumption of service
31 or prior to retirement whichever comes sooner; or

32 (b) If not within five years of resumption of service but prior to
33 retirement, pay the amount required under RCW 41.50.165(2).

34 The contributions required under (a) of this subsection shall be
35 based on the average of the member's compensation earnable at both the
36 time the authorized leave of absence was granted and the time the
37 member resumed employment.

1 (4) A member who leaves the employ of an employer to enter the
2 (~~armed forces~~) uniformed services of the United States shall be
3 entitled to retirement system service credit for up to five years of
4 military service. This subsection shall be administered in a manner
5 consistent with the requirements of the federal uniformed services
6 employment and reemployment rights act.

7 (a) The member qualifies for service credit under this subsection
8 if:

9 (i) Within ninety days of the member's honorable discharge from the
10 uniformed services of the United States (~~armed forces~~), the member
11 applies for reemployment with the employer who employed the member
12 immediately prior to the member entering the (~~United States armed~~
13 ~~forces~~) uniformed services; and

14 (ii) The member makes the employee contributions required under RCW
15 41.37.220 within five years of resumption of service or prior to
16 retirement, whichever comes sooner; or

17 (iii) Prior to retirement and not within ninety days of the
18 member's honorable discharge or five years of resumption of service the
19 member pays the amount required under RCW 41.50.165(2).

20 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
21 or (e)(iii) of this subsection, the department shall establish the
22 member's service credit and shall bill the employer for its
23 contribution required under RCW 41.37.220 for the period of military
24 service, plus interest as determined by the department.

25 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
26 of this subsection shall be based on the compensation the member would
27 have earned if not on leave, or if that cannot be estimated with
28 reasonable certainty, the compensation reported for the member in the
29 year prior to when the member went on military leave.

30 (d) The surviving spouse or eligible child or children of a member
31 who left the employ of an employer to enter the uniformed services of
32 the United States and died while serving in the uniformed services may,
33 on behalf of the deceased member, apply for retirement system service
34 credit under this subsection up to the date of the member's death in
35 the uniformed services. The department shall establish the deceased
36 member's service credit if the surviving spouse or eligible child or
37 children:

1 (i) Provides to the director proof of the member's death while
2 serving in the uniformed services;

3 (ii) Provides to the director proof of the member's honorable
4 service in the uniformed services prior to the date of death; and

5 (iii) Pays the employee contributions required under chapter 41.45
6 RCW within five years of the date of death or prior to the distribution
7 of any benefit, whichever comes first.

8 (e) A member who leaves the employ of an employer to enter the
9 uniformed services of the United States and becomes totally
10 incapacitated for continued employment by an employer while serving in
11 the uniformed services is entitled to retirement system service credit
12 under this subsection up to the date of discharge from the uniformed
13 services if:

14 (i) The member obtains a determination from the director that he or
15 she is totally incapacitated for continued employment due to conditions
16 or events that occurred while serving in the uniformed services;

17 (ii) The member provides to the director proof of honorable
18 discharge from the uniformed services; and

19 (iii) The member pays the employee contributions required under
20 chapter 41.45 RCW within five years of the director's determination of
21 total disability or prior to the distribution of any benefit, whichever
22 comes first.

23 (f) If the employer of a member who leaves employment to enter the
24 uniformed services of the United States chooses to continue to pay all
25 or part of the member's salary during the period of interruptive
26 military service, such paid amounts may be reported to the department
27 for pension purposes and the member may continue to accrue the
28 corresponding service credit during the period of interruptive military
29 service for so long as the employer and the member make the required
30 pension contributions.

31 NEW SECTION. Sec. 12. Section 11 of this act takes effect July 1,
32 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	10/7/04	Z-0163.1

SUMMARY OF BILL:

This bill impacts the Public Employees' Retirement System, the School Employees' Retirement System, the Teachers' Retirement System, the Law Enforcement Officers' and Firefighters' Retirement System Plan 2, the Washington State Patrol Retirement System, and the Public Safety Employees' Retirement System by authorizing interruptive military service credit for employees who cannot return to public employment due to death or total disability while serving in the uniformed services. Service credit could be purchased by a disabled member or survivor(s) of a deceased member for interruptive military service credit up to the date of death or disability. This bill also would allow for accrual of service credit during the period of interruptive military service in those instances in which the employer chooses to continue to pay all or part of a member's salary and the required employer and member contributions continue to be paid into the retirement system.

Effective Date: 90 days after session.

CURRENT SITUATION:

Interruptive military service is governed by the Uniformed Services Employment and Re-employment Rights Act (USERRA). At a minimum, public employers must provide the protections specified in the act. State law can provide for benefits that are more generous than those under USERRA, as long as the minimum requirements of the federal law are fully satisfied.

USERRA provides for the re-employment of individuals who leave employment to serve in the uniformed services of the United States. Included in USERRA's re-employment rights is the right to restoration of retirement plan benefits, and to that end, USERRA provides for reinstatement of retirement service credit after re-employment. USERRA does not, however, address the retirement benefits that would have accrued to members who are never re-employed because they died while in active service or became totally incapacitated for continued service with their employer.

With respect to salary paid during the period of interruptive military service, current law does not provide for reporting such pay to the Department of Retirement Systems. Pension contributions are paid back to the retirement system after the members are re-employed. For vesting and accrual purposes, however, members are treated as if they had been continuously employed, as this is one of the requirements of USERRA.

MEMBERS IMPACTED:

We estimate that each year, 0 to 6 members out of the total members of all the systems would be affected by this bill.

We estimate that for a typical member impacted by this bill, the increase in benefits would be in the \$40 to \$50 per month range.

FISCAL IMPACT:

The cost of this bill is insufficient to increase contribution rates in any of the affected systems.